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U.S. GOVERNMENT
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GPO

3-3-88
Vol. 53 No. 42
Pages 6783-6964

Federal Register

Thursday
March 3, 1988

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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

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Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegation of Authority

AGENCY: Department of Agriculture.
ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Secretary of Agriculture and General Officers of the Department to expressly authorize the Assistant Secretary for Science and Education, the Cooperative State Research Service and the Extension Service to obtain Federal excess property and to furnish it to eligible institutions to further the purposes of certain research and extension programs.

EFFECTIVE DATE: March 3, 1988.

FOR FURTHER INFORMATION CONTACT: Richard L. Prather, Director, Personnel and Management Services Division, Room 3547 South Building, Extension Service, United States Department of Agriculture, Washington, DC 20250, (202) 475–4806.

SUPPLEMENTARY INFORMATION: Section 202(d)(2) of the Federal Property and Administrative Services Act of 1949 was amended by section 1443 of the Agriculture and Food Act of 1981 (40 U.S.C. 483(d)(2)) to authorize the Secretary of Agriculture to obtain excess personal property and to furnish it "to any State or county extension service engaged in cooperative agricultural extension work pursuant to the Act of May 8, 1914 (7 U.S.C. 341 *et seq.*); any State experiment station engaged in cooperative agricultural research work pursuant to the Act of March 2, 1887 (7 U.S.C. 361a *et seq.*); and any institution engaged in cooperative agricultural research or extension work pursuant to sections 1433, 1434, 1444, or 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195, 3196, 3221, and 3222) or the Act of October 10, 1962 (16 U.S.C. 582a *et seq.*), where title is retained in the United States". This rule delegates that authority from the Secretary of Agriculture to the Assistant Secretary for Science and Education and further to the Administrators of the Extension Service and the Cooperative State Research Service so that they are expressly authorized to obtain and furnish excess property to the eligible recipients for their use in the conduct of the above-identified research and extension programs.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register.**

Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by the Regulatory Flexibility Act and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government Agencies).

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for Part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.30 is amended by adding a new paragraph (a)(88) to read as follows:

§ 2.30 Delegations of authority to the Assistant Secretary for Science and Education.

* * * * *

(a) * * *

(88) Obtain and furnish Federal excess property to eligible recipients for use in the conduct of research and extension programs (40 U.S.C. 483(d)(2)).

* * * * *

Subpart N—Delegations of Authority by the Assistant Secretary for Science and Education

3. Section 2.107 is amended by adding a new paragraph (a)(35) to read as follows:

§ 2.107 Administrator, Cooperative State Research Service.

(a) * * *

(35) Obtain and furnish Federal excess property to eligible recipients for use in the conduct of research and extension programs (40 U.S.C. 483(d([2)).

4. Section 2.108 is amended by adding a new paragraph (a)(28) to read as follows:

§ 2.108 Administrator, Extension Service.

(a) * * *

(28) Obtain and furnish excess property to eligible recipients for use in the conduct of research and extension programs (40 U.S.C. 483(d)(2)).

For Subpart C.
Date: February 19, 1988.

Richard E. Lyng,
Secretary of Agriculture.

For Subpart N.
Date: February 11, 1988.

Orville G. Bentley,
Assistant Secretary for Science and Education.

[FR Doc. 88–4595 Filed 3–2–88; 8:45 am]
BILLING CODE 3410–09–M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 88–006]

Oriental Fruit Fly; Removal of San Diego County From the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the regulations by removing from the list of quarantined areas portions of San Diego County in California.

EFFECTIVE DATE: April 4, 1988.

FOR FURTHER INFORMATION CONTACT: Eddie Elder, Chief Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, Room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** on October 27, 1987, and effective October 21, 1987 (52 FR 41287–42188, Docket Number 87–135), we removed the listed portion of San Diego County in California from the list of areas designated as quarantined areas because of the Oriental fruit fly. We did not receive any comments, which were required to be postmarked or received on or before December 28, 1987. The facts presented in the interim rule still provide a basis for this rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Within the part of San Diego County that is being removed from the quarantined area, there are fewer than 40 small entities that may be affected, including 25 nurseries, 5 mobile fruit and vegetable vendors, and one farmers' market. The effect of this rule on these entities is beneficial in that it removes restrictions on interstate movement of certain regulated articles sold by these entities.

Under these circumstances, the Acting Administrator of the Animal Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act or 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Oriental fruit fly, Incorporation by reference.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR Part 301 and that was published at 52 FR 41287–41288 on October 27, 1987.

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 29th day of February 1988.

James W. Glosser,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–4677 Filed 3–2–88; 8:45 am]

BILLING CODE 3410–34–M

Farmers Home Administration

7 CFR Part 1942

Community Facility Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is amending its community facility loan regulations. The action is in response to FmHA staff requests for clarification of the regulations for loans for community facilities and community domestic water and waste disposal systems. It will also bring the regulations into compliance with certain provisions of the Food Security Act of 1985 and the Single Audit Act of 1984. The intended effect is to provide more comprehensive guidance to applicants and FmHA staff regarding FmHA financial assistance for water and waste disposal systems and essential community facilities.

EFFECTIVE DATE: March 3, 1988.

FOR FURTHER INFORMATION CONTACT: Shirley Stroud, Loan Specialist, Community Facilities Division, Farmers Home Administration, USDA, South Agriculture Building, 14th and Independence Avenue, SW., Room 6310, Washington, DC 20250, Telephone 202–382–1496.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be "non-major." The action is not likely to result in any of the following: (a) an annual effect on the economy of $100 million or more, (b) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Intergovernmental Review

These programs are listed in the Catalog of Federal Domestic Assistance under numbers 10.423, Community Facilities Loans, and 10.418, Water and Waste Disposal Systems for Rural Communities, and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR 3015, Subpart V; 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985).

Environmental Impact

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Programs." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Background

This package is an accumulation of numerous regulation changes suggested by various staff members over a period of several months along with changes needed to comply with the Single Audit Act of 1984, OMB Circular A–128, and the Food Security Act of 1985. FmHA believes the changes will clarify the regulations and help FmHA to serve the public more efficiently while protecting the Government's interest.

The primary changes include the following:

1. A requirement is added that notices of adverse action on preapplications or applications will include a statement regarding the Federal Equal Credit Opportunity Act.

2. The requirements for preparing letters of conditions are clarified. Scheduling of payments, compliance with Section 504 of the Rehabilitation Act, and reserve requirements are added to the list of items to be covered in letters of conditions.

3. A provision is added to clarify the authority of the FmHA District Office to request information from applicants as needed to determine eligibility.

4. Under certain conditions application dockets must be reviewed in the National Office. The list of items that must be included in the docket for National Office review is amended to clarify the type of financial information required.

5. A provision is added under which funds obligated for a particular applicant may be transferred to another applicant, if the new applicant meets eligibility requirements, the two applicants have a close and genuine relationship and the need for and scope of the project does not change.

6. A requirement for National Office review of negotiated procurement contracts over $100,000 is removed.

7. A provision is added to allow noncompetitive negotiation for procurement actions not exceeding $50,000.

8. Regulations prohibit choosing boundaries for the service area of an FmHA financed utility-type facility to exclude certain people. The list of people who may not be excluded is expanded to include the handicapped.

9. The eligibility criteria for the poverty line interest rate is amended to remove the reference to enforcement and recognize standards of agencies with jurisdiction to establish standards.

10. The time limit for deferring collection of principal is clarified to be 36 months following the date the first interest installment is due.

11. Security requirements are amended to provide that a lien may be taken in an applicant's interest in a water sales contract.

12. A provision is added to clarify that if there are conflicts between this subpart and State or local laws, this subpart will control. A requirement that borrowers' procurement regulations comply with State and local laws is removed.

13. The regulations regarding supervised bank accounts are amended to clarify that supervised bank accounts may, under certain circumstances, be used for funds advanced by other lenders or agencies.

14. The regulations regarding review and acceptance of partial payment estimates are amended to provide for partial payment estimates prepared by the contractor rather than the project architect/engineer.

15. A provision is added that borrowers planning to sell water to other bulk users must have written contracts for such service.

16. A provision is added that management agreements or leases must not contain agreements for transfer of ownership.

17. The section on priorities is revised to adjust the criteria for awarding priority points based on income, to correspond to the thresholds for different interest rates.

18. A paragraph is removed which has caused confusion regarding requirements for loan repayment schedules. In all cases payments to FmHA should approximate amortized installments.

19. A provision is added that FmHA will fully consider any recommendations of the owner concerning technical design and choice of materials.

20. The paragraphs on audits of borrower operations are revised to comply with the Single Audit Act of 1984, Pub. L. 998–502, and OMB Circular A–128, "Audits of State and Local Governments." The Single Audit Act of 1984 establishes audit requirements for State and local governments that receive Federal assistance and defines Federal responsibilities for implementing and monitoring those requirements. Section 7505 of the Act required OMB to issue implementing guidelines, which were issued as OMB Circular A–128. Further, the Circular directed Federal agencies to publish regulations implementing it.

Comments: This action was published as a proposed rule for public comment on April 17, 1987, in Volume 52, No. 74 of the **Federal Register**, beginning on page 12539. Four comments were received.

Three commenters pointed out that the language on material selection does not require that FmHA's justification be in writing. The commenters quoted a committee report that suggests that FmHA's response be in writing. The Farm Security Act of 1985 does not require a written justification. However, we recognize the need to clearly document FmHA's justification and have added suitable language to that effect. The fourth comment recommended clarification on when an audit under OMB Circular A–128 guidelines is required and on the definition of cognizant agency. Section 1942.17(q)(4) has been amended for clarity and to comply with the comment.

This final rule contains additional minor changes to 7 CFR 1942–A that were not published in the proposed rule or listed in the above summary of primary changes. These additional changes are items of internal management only and do not impact on the public.

List of Subjects in 7 CFR Part 1942

Community development, Community facilities, Loan programs—housing and community development, loan security, rural areas, waste treatment and disposal—domestic, water supply—domestic.

Accordingly, FmHA amends Subpart A of Part 1942, Chapter XVIII, Title 7, Code of Federal Regulations, as follows:

PART 1942—ASSOCIATIONS

1. The authority citation for Part 1942 continues to read as follows:

Authority: 7 U.S.C. 1989; 16 U.S.C. 1005; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Community Facility Loans

2. Section 1942.1 is amended by revising paragraph (d) to read as follows:

§ 1942.1 General.

* * * * *

(d) The County Office will normally be the entry point for preapplications and serve as a local contact point. However, applications will be filed with the District Office and loans will be processed to the maximum extent possible by the District Office staff. The applicant's governing body should designate one person to coordinate the activities of its engineer, architect, attorney, and any other professional employees and to act as contact person during loan processing. FmHA personnel should make every effort to involve the applicant's contact person when meeting with the applicant's professional consultants and/or agents. The State Office staff will monitor

Community Programs loan making and servicing, and will provide assistance to District Office personnel to the extent necessary to assure that the activities are being accomplished in an orderly manner consistent with FmHA regulations. The District Director will supply information on Community Program loan activity within the County Office service area to the County Supervisor at key points throughout the loan making process. As a minimum, the District Director should provide appropriate copies or notice to the County Office when the following actions occur:

(1) Form AD–622, "Notice of Preapplication Review Action," is issued.

(2) Project summary is completed.

(3) Letter of Conditions is issued.

(4) Applicant declines to execute Form FmHA 442–46, "Letter of Intent To Meet Conditions."

(5) Applicant is notified of loan or grant approval.

(6) A loan is properly closed.

(7) A construction contract is awarded.

(8) A final inspection is completed.

3. Section 1942.2 is amended by adding a new paragraph (a)(1)(v) and revising paragraphs (a)(2) (iii) and (iv) and paragraph (d) to read as follows:

§ 1942.2 Processing applications.

(a) * * *

(1) * * *

(v) Supporting documentation necessary to make an eligibility determination such as financial statements, audits, or copies of organizational documents or existing debt instruments. The District Director will advise applicants on what documents are necessary. Applicants should not be required to expend significant amounts of money or time developing supporting documentation at the preapplication stage.

* * * * *

(2) * * *

(iii) The State Director will review the District Director's eligibility determination and recommendations in sufficient time for the District Director's use in preparing and issuing Form AD–622.

(iv) Form AD–622 will be prepared by the District Director within forty-five (45) calendar days from receipt of the preapplication by FmHA, stating the results of the review action. The original will be signed and delivered to the applicant with a copy to the State Director.

* * * * *

(d) *Review of decision.* If at any time prior to loan approval it is decided that favorable action will not be taken on a preapplication or application, the District Director will notify the applicant in writing of the reasons why the request was not favorably considered. The notification to the applicant will state that a review of this decision by FmHA may be requested by the applicant under Subpart B of Part 1900 of this chapter. The following statement will also be made on all notifications of adverse action.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income is derived from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

* * * * *

§ 1942.3 [Amended]

4. Section 1942.3 is amended in the third sentence by changing the reference "§ 1941.17(g)(2)(iii)(B)(*2*)" to read "§ 1942.17(g)(2)(iii)(B)(*2*)."

5. Section 1942.5 is amended by revising paragraphs (a)(1)(i), (b)(1)(ii)(F), (b)(1)(ii)(G), the introductory text of paragraph (c), (c)(2), (d)(3), (d)(4), (d)(5), (d)(6) and (d)(7) to read as follows:

§ 1942.5 Application review and approval.

(a) * * *

(1) * * *

(i) Requirements listed in letters of conditions will include the following unless inappropriate due to the particular type of funding or entity involved: maximum amount of loan and/or grant which may be considered, scheduling of payments, term of loan and any deferment of principal which may be allowed, reserve requirements, compliance with Section 504 of the Rehabilitation Act of 1973, number of users (members) and verification required, contributions, rates and charges, interim financing, disbursement of funds, security requirements, graduation requirements, organization, business operations, insurance and bonding (including applicant/borrower and contractor), construction contract documents and bidding, accounts, records, and audit reports required (including requirements of OMB Circulars A–128 and A–110), adoption of Form FmHA 1942–47, "Loan Resolution (Public Bodies)," for public bodies or Form FmHA 1942–9, "Loan Resolution (Security Agreement)," for other than public bodies, closing instructions, and other requirements.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(F) Form FmHA 442–3, "Balance Sheet," or a financial statement or audit that includes a balance sheet.

(G) For other essential community facility loan applicants whose proposals do not meet the assured income or tax based security requirements of § 1942.17 (g)(2)(iii) and (g)(3)(iii) of this subpart, financial information for the last five years of operation will be submitted if available. The type of financial information to be submitted should be determined based on what is available and the following order of preference:

(*1*) Complete audits;

(*2*) Unaudited financial statements including balance sheets and statements of income and expenses;

(*3*) Lists of income and expenses.

* * * * *

(c) *For all applications.* All letters of conditions will be addressed to the applicant, signed by the District Director or other FmHA representative designated by State Director, and delivered to the applicant. Upon signing the letter of conditions, the District Director will send two copies of the letter of conditions and two copies of Forms FmHA 1942–43 or FmHA 1942–45 to the State Director. The State Director will immediately send one copy of Forms FmHA 1942–43 or FmHA 1942–45 (including the required copy of Forms FmHA 442–7 and FmHA 442–14) and a copy of the letter of conditions to the National Office, Attention: Water and Waste Disposal Division or Community Facilities Division, as appropriate. The District Director, with assistance as needed from the State Office, will discuss the requirements of the letter of conditions with the applicant's representatives and afford them an opportunity to execute Form FmHA 442–46.

* * * * *

(2) If the applicant declines to execute Form FmHA 442–46, the District Director will immediately notify the State Director and provide complete information as to the reasons for such declination.

* * * * *

(d) * * *

(3) The State Director or designee will request an obligation of loan and/or grant funds via the FmHA Field Office terminal system after signing Form FmHA 1940–1. The requesting official will furnish security identification as

necessary. The requesting official will record the date, time of request, and their initials on the original Form FmHA 1940–1.

(4) The obligation date and date the applicant is notified of loan and/or grant approval is six working days from the date funds are reserved unless an exception is granted by the National Office.

(5) Immediately after verifying that funds have been reserved, utilizing the FmHA Field Office terminal system status inquiry function, the State Director or designee will notify by telephone, the Legislative Affairs and Public Information Staff in the National Office as required by FmHA Instruction 2015–C, "Announcement of Approval of Loans, Grants, or Guaranteed Loans for Rural Project," (available in any FmHA State Office).

(6) Loan approval and applicant notification will be accomplished by the State Director or designee by mailing to the applicant on the obligation date a copy of Form FmHA 1940–1 which has been previously signed by the applicant and loan approval official. The date the applicant is notified is also the date the interest rate at loan approval is established. The State Director or designee will record the date of applicant notification and the interest rate in effect at that time on the original of Form FmHA 1940–1 and include it as a permanent part of the District Office project file with a copy placed in the State Office file.

(7) If a transfer of obligation of funds is necessary, complete Form FmHA 450–10, "Advice of Borrower's Change of Address, Name, Case Number, or Loan Number," and process via the FmHA Field Office terminal system. An obligation of funds established for an applicant may be transferred to a different (substituted) applicant provided:

(i) The substituted applicant is eligible to receive the assistance approved for the original applicant; and

(ii) The substituted applicant bears a close and genuine relationship to the original applicant (such as two organizations that are controlled by the same individuals); and

(iii) The need for and scope of the project and the purpose(s) for which FmHA funds will be used remain substantially unchanged.

6. Section 1942.6 is amended by revising paragraph (e)(3) to read as follows:

§ 1942.6 Preparation for loan closing.

* * * * *

(e) * * *

(3) The District Director will collect interest through the actual date of the retirement and obtain the permanent instrument(s) of debt in exchange for the interim financing instruments. The permanent instruments and the cash collection will be forwarded to the Finance Office immediately, except that for promissory notes and single instrument bonds fully registered as to principal and interest, the original will be retained in the District Office and a copy will be forwarded to the Finance Office. In developing the permanent instruments, the sequence of preference set out in § 1942.19(e) of this subpart will be followed.

7. Section 1942.7 is amended by removing paragraph (f) and redesignating paragraph (g) as paragraph (f).

8. Section 1942.8 is amended by revising paragraphs (b), (c), and (g) to read as follows:

§ 1942.8 Actions subsequent to loan closing.

* * * * *

(b) *Notes and bonds.* When the debt instrument is a promissory note or single instrument bond fully registered as to principal and interest, a conformed copy will be sent to the Finance Office immediately after loan closing and the original instrument will be stored in the District Office. When other types of bonds are used, the original bond(s) will be forwarded to the Finance Office immediately after loan closing.

(c) *Multiple advances—bond(s).* When temporary paper, such as bond anticipation notes or interim receipts, is used to conform with the multiple advance requirement, the original temporary paper will be forwarded to the Finance Office after each advance is made to the borrower. The borrower's case number will be entered in the upper righthand corner of such paper by the District Office. The permanent debt instrument(s) should be forwarded to the Finance Office as soon as possible after the last advance is made except that for promissory notes and single instrument bonds fully registered as to principal and interest, the original will be retained in the District Office and a copy will be forwarded to the Finance Office.

* * * * *

(g) *State Office review of loan closing.* The State Director will review the District Director's statement concerning loan closing, the security instruments, and other documents used in closing to determine whether the transaction was closed properly. All material submitted by the District Director, including the executed contract documents (if required by OGC) with the certification of the borrower's attorney, along with a statement by the State Director that all administrative requirements have been met, will be referred to OGC for post-closing review. OGC will review the submitted material to determine whether all legal requirements have been met. OGC's review of FmHA's standard forms will be only for proper execution thereof, unless the State Director brings specific questions or deviations to the attention of OGC. It is not expected that facility development including construction will be held up pending receipt of the opinion from OGC. When the opinion from OGC is received, the State Director will advise the District Director of any deficiencies that must be corrected and return all material that was submitted for review.

* * * * *

9. Section 1942.9 is amended by removing paragraph (e) and by revising the introductory text of paragraph (b) to read as follows:

§ 1942.9 Planning, bidding, contracting, and constructing. [See §§ 1942.17(p) and 1942.18]

* * * * *

(b) *Contract approval.* The State Director or designee is responsible for approving all construction contracts using legal advice and guidance of OGC as necessary. The use of a contracting method under § 1942.18(1) of this subpart exceeding $100,000 must be concurred in by the National Office. Procurement under § 1942.18(1) of this subpart will not be considered when an FmHA grant is involved. When an applicant requests such concurrence, the State Director will submit the following to the National Office:

* * * * *

10. Section 1942.12 is amended by revising paragraph (a) to read as follows:

§ 1942.12 Loan cancellation.

* * * * *

(a) *Form 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation."* The District Director or State Director may prepare and execute Form FmHA 1940–10 in accordance with the Forms Manual Insert (FMI).

* * * * *

11. Section 1942.17 is amended by revising paragraphs (b)(3), (c)(2)(iii)(C), (e)(2), (f)(1) and (f)(2)(i), removing paragraph (f)(7)(i), redesignating paragraphs (f)(7)(ii) and (f)(7)(iii) as paragraphs (f)(7)(i) and (f)(7)(ii), respectively, revising the introductory text of the newly redesignated paragraph (f)(7)(i), and paragraphs

(g)(2)(i)(C), (g)(3)(i)(B), and the introductory text of paragraphs (j)(3) and (k)(1), redesignating paragraphs (k)(2) through (k)(8) as paragraphs (k)(3) through (k)(9), respectively, adding a new paragraph (k)(2), and revising paragraphs (m)(1), (p)(3)(i), (p)(4), (q)(2)(i)(B), (q)(3), (q)(4), (q)(5), (r)(1)(i), (r)(1)(ii)(C)(*4*), (r)(1)(ii) (D) and (F), (r)(1)(iii), and (r)(2) to read as follows:

§ 1942.17 Community facilities.

* * * * *

(b) * * *

(3) *Legal authority and responsibility.* Each applicant must have or will obtain the legal authority necessary for constructing, operating, and maintaining the proposed facility or service and for obtaining, giving security for, and repaying the proposed loan. The applicant shall be responsible for operating, maintaining, and managing the facility, and providing for its continued availability and use at reasonable rates and terms. This responsibility shall be exercised by the applicant even though the facility may be operated, maintained, or managed by a third party under contract, management agreement, or written lease. Leases may be used when this is the only feasible way to provide the service and is the customary practice. Management agreements should provide for at least those items listed in Guide 24 of this subpart (available in any FmHA office). Such contracts, management agreements, or leases must not contain options or other provisions for transfer of ownership.

* * * * *

(c) * * *

(2) * * *

(iii) * * *

(C) *Income priorities.* The following priorities apply to both Water and Waste Disposal and Community Facilities preapplications. Points will be distributed as indicated. The median income of the population to be served by the proposed facility is:

(*1*) Less than the poverty line for a family of four, as defined in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), or less than 80 percent of the statewide nonmetropolitan median household income.—25 points.

(*2*) Equal to or more than the poverty line and between 80% and 100%, inclusive, of the State's nonmetropolitan median household income.—20 points.

* * * * *

(e) * * *

(2) In no case will boundaries for the proposed service area be chosen in such a way that any user or area will be excluded because of race, color, religion, sex, marital status, age, handicap, or national origin.

* * * * *

(f) * * *

(1) *General.* Each loan will bear interest at the rate prescribed in FmHA Instruction 440.1, Exhibit B (available in any FmHA office). The interest rates will be set by FmHA at least for each quarter of the fiscal year. All rates will be adjusted to the nearest one-eighth of one per centum. For each loan, the basis for determining what interest rate is appropriate will be completely documented on Form FmHA 1942–43 or Form FmHA 1942–45. The applicant may submit a written request prior to loan closing that the interest rate charged on the loan be the lower of the rate in effect at the time of loan approval or the rate in effect at the time of loan closing. If the interest rate is to be that in effect at loan closing, the interest rate charged on a loan involving multiple advances of FmHA funds, using temporary debt instruments, shall be that in effect on the date when the first temporary debt instrument is issued. If no written request is received from the applicant prior to loan closing, the interest rate charged on the loan will be the rate in effect at the time of loan approval.

(2) * * *

(i) The primary purpose of the loan is to upgrade existing facilities or construct new facilities required to meet applicable health or sanitary standards. Documentation will be obtained from the appropriate regulatory agency with jurisdiction to establish the standard, to verify that a bonafide standard exists, what that standard is, and that the proposed improvements are needed and required to meet the standard; and

* * * * *

(7) * * *

(i) Principal payments may be deferred in whole or in part for a period not to exceed 36 months following the date the first interest installment is due. If for any reason it appears necessary to permit a longer period of deferment, the State Director may authorize such deferment with the prior approval of the National Office. Deferments of principal will not be used to:

* * * * *

(g) * * *

(2) * * *

(i) * * *

(C) Pledges of facility revenue and, when it is the customary financial practice in the State, liens will be taken on the interest of the applicant in all land, easements, rights-of-way, water rights, water purchase contracts, water sales contracts, sewage treatment contracts, and similar property rights, including leasehold interest, used or to be used in connection with the facility whether owned at the time the loan is approved or acquired with loan funds; and/or

* * * * *

(3) * * *

(i) * * *

(B) A lien will be taken on the interest of the applicant in all land, easements, rights-of-way, water rights, water purchase contracts, water sales contracts, sewage treatment contracts and similar property rights, including leasehold interest, used, or to be used in connection with the facility whether owned at the time the loan is approved or acquired with loan funds. In unusual circumstances where it is not feasible to obtain a lien on such land (such as land rights obtained from Federal or local government agencies, and from railroads) and the loan approval official determines that the interest of FmHA otherwise is secured adequately, the lien requirement may be omitted as to such land rights.

* * * * *

(j) * * *

(3) *Insurance and bonding.* Needed insurance coverage and fidelity bonds will be obtained by the time of loan closing or start of construction, whichever occurs first. Ordinarily, FmHA should be listed as mortgages on the property insurance when FmHA has a lien on the property. Insurance policies are not required to be filed in the case file. However, the borrower must continue to maintain insurance in adequate amounts to protect the Government's interest for the life of the loan. After the first year of operation an annual listing of insurance in audits, management reports, or other statements signed by appropriate borrower officials, will be considered as sufficient evidence of insurance maintenance. A copy of the fidelity bond(s) should be filed in the borrower's case file. Insurance requirements will not normally be over and above those proposed by the borrower provided coverage is found to be adequate, and in accordance with the following:

* * * * *

(k) * * *

(1) *Compliance with special laws and regulations.* Except as provided in paragraph (k)(2) of this section applicants will be required to comply with Federal, State, and local laws and any regulatory commission rules and regulations pertaining to:

* * * * *

(2) *Compliance exceptions.* If there are conflicts between this subpart and state or local laws or regulatory commission regulations, the provisions of this subpart will control.

* * * * *

(m) *Applying for FmHA loans*—(1) *Preapplication.* Applicants desiring loans will file Form AD–621 and comments from the appropriate A–95 clearinghouse agency normally with the appropriate FmHA County Office. The County Supervisor will immediately forward all documents to the District Office. The District Director has prime responsibility for all community program loan making and servicing activities within the District.

* * * * *

(p) * * *

(3) * * *

(i) *Supervised bank account.* FmHA loan funds and any funds furnished by the applicant/borrower to supplement the loan including contributions to purchase major items of equipment, machinery, and furnishings may be deposited in a supervised bank account if determined necessary as provided in Subpart A of Part 1902 of this chapter. When FmHA has a Memorandum of Understanding with another agency that provides for the use of supervised bank accounts, or when FmHA is the primary source of funds for a project and has determined that the use of a supervised bank account is necessary, project funds from other sources may also be deposited in the supervised bank account. FmHA shall not be accountable to the source of the other funds nor shall FmHA undertake responsibility to administer the funding program of the other entity. Supervised bank accounts should not be used for funds advanced by an interim lender.

* * * * *

(4) *Development inspections.* The District Director will be responsible for monitoring the construction of all projects being financed, wholly or in part, with FmHA funds. Technical assistance will be provided by the State Director's staff. Project monitoring will include construction inspections and a review of each project inspection report, each change order and each partial payment estimate and other invoices such as payment for engineering/architectural and legal fees and other materials determined necessary to effectively monitor each project. These activities will not be performed on behalf of the applicant/borrower, but are solely for the benefit of FmHA and in no way are intended to relieve the applicant/borrower of corresponding obligations to conduct similar monitoring and inspection activities. Project monitoring will include periodic inspections to review partial payment estimates prior to their approval and to review project development in accordance with plans and specifications. Each inspection will be recorded using Form FmHA 1924–12, "Inspection Report." The original Form FmHA 1924–12 will be filed in the project case folder and a copy furnished to the State Director. The State Director will review inspection reports and will determine that the project is being effectively monitored. The District Director is authorized to review and accept partial payment estimates prepared by the contractor and approved by the borrower, provided the consulting engineer or architect, if one is being utilized for the project, has approved the estimate and certified that all material purchased or work performed is in accordance with the plans and specifications, or if a consulting engineer or architect is not being utilized, the District Director has determined that the funds requested are for authorized purposes. If there is any indication that construction is not being completed in accordance with the plans and specifications or that any other problems exist, the District Director should notify the State Director immediately and withhold all payments on the contract.

* * * * *

(q) * * *

(2) * * *

(i) * * *

(B) Prior to the beginning of each fiscal year, two copies, with data entered in column three only of Schedule 1, page one, "Annual Budget" and all of Schedule 2, will be submitted to the District Director. Twenty (20) days after the end of each of the first three quarters of each year, two copies with all information furnished on Schedule 1 will be submitted. For the fourth quarter of each year, submit together with the year-end financial requirements of paragraphs (q) (4) and (5) of this section. More frequent submissions may be required by FmHA when necessary. The submission dates to the District Director will be 90 days following year-end for audited statements and 60 days following year-end for unaudited statements. The fourth quarter submission may serve the dual purpose of management report and year-end financial requirement for Statement of Income.

* * * * *

(3) *Substitute for management reports.* When FmHA loans are secured by the general obligation of the public body or tax assessments which total 100 percent of the debt service requirements, the State Director may authorize an annual audit to substitute for other management reports if the audit is received within 90 days following the period covered by the audit.

(4) *Audits.* All audits are to be performed in accordance with generally accepted government auditing standards (GAGAS), using the publication, "Standards for Audit of Governmental Organizations, Programs, Activities and Functions," developed by the Comptroller General of the United States in 1981, and any subsequent revisions. In addition, the audits are also to be performed in accordance with various Office of Management and Budget (OMB) Circulars and FmHA requirements as specified in the separate sections of this subpart.

(i) *Audits based upon Federal financial assistance received.* The following requirements shall apply to audits of the years in which funds are received by the borrower.

(A) *Local governments and Indian tribes.* These organizations are to be audited in accordance with this subpart and OMB Circular A–128, with copies of the audits being forwarded by the borrower to the FmHA District Director and the appropriate Federal cognizant agency. The Circular is available in any FmHA office. For years in which an audit is not required by OMB Circular A–128, see paragraph (q)(4)(ii) of this section.

(*1*) *Cognizant agency.* (*i*) "Cognizant agency" means the Federal agency assigned by OMB to carry out the responsibilities described in OMB Circular A–128. Within the Department of Agriculture (USDA), OIG is designated as the cognizant agency.

(*ii*) *Cognizant agency assignments.* Smaller borrowers not assigned a cognizant agency by OMB should contact the Federal agency that provided the most funds. When USDA is designated as the cognizant agency or when it has been determined by the borrower that FmHA provided the major portion of Federal financial assistance, the appropriate USDA OIG Regional Inspector General shall be contacted. FmHA and the borrower shall coordinate all proposed audit plans with appropriate USDA OIG. A list of OIG contact persons is attached to FmHA Instruction 1942–A as Exhibit B (available in any FmHA office).

(*2*) *Audit requirements.* It is not intended that audits required by this subpart be separate and apart from audits performed in accordance with State and local laws. To the extent

feasible, the audit work should be done in conjunction with those audits.

(*i*) Local governments and Indian tribes that receive $100,000 or more a year in Federal financial assistance shall have an audit for that year in accordance with OMB Circular A–128.

(*ii*) Local governments and Indian tribes that receive between $25,000 and $100,000 a year in Federal financial assistance shall have an audit made in accordance with OMB Circular A–128 or in accordance with FmHA audit requirements. This is an option of the local government or Indian tribe. If the election is made to have an audit performed in accordance with FmHA requirements, the audit shall be in accordance with paragraph (q)(4)(i)(B) of this section.

(*iii*) Local governments and Indian tribes that receive less than $25,000 a year in Federal financial assistance shall be exempt from both OMB Circular A–128 audits and FmHA audit requirements. However, audits performed shall be governed by the requirements prescribed by State or local law or regulation.

(*iv*) Public hospitals and public colleges and universities may be excluded from OMB Circular A–128 audit requirements. However, in this case audits shall be made in accordance with paragraph (q)(4)(i)(B) of this section.

(*3*) *Fraud, abuse, and illegal acts.* If the auditor becomes aware of any indication of fraud, abuse, or illegal acts in FmHA financed projects, prompt written notice shall be given to the appropriate USDA OIG Regional Inspector General and the District Director.

(B) *Nonprofit organizations and others.* These organizations are to be audited in accordance with FmHA requirements and OMB Circular A–110, "Uniform Requirements for Grants to Universities, Hospitals, and Other Nonprofit Organizations." These requirements also apply to public hospitals and public colleges and universities if they are excluded from the audits of paragraph (q)(4)(i)(A) of this section.

(*1*) Audits shall be annual unless otherwise prohibited and supplied to the FmHA District Director as soon as possible but in no case later than ninety (90) days following the period covered by the audit.

(*2*) *Audit requirements.* (*i*) Borrowers which receive $25,000 or more a year in Federal financial assistance shall have an audit. Also, refer to paragraph (q)(4)(ii) of this section for additional audit requirements.

(*ii*) Borrowers which receive less than $25,000 a year in Federal financial assistance shall be exempt from audits except for the audits based upon annual gross income which may apply in paragraph (q)(4)(ii) of this section.

(*iii*) Indications of fraud, abuse and illegal acts shall be processed in accordance with paragraph (q)(4)(i)(A)(*3*) of this section.

(ii) *Audits based upon annual gross income.* The following annual gross income audit reguirements shall apply to all borrowers (local government, Indian tribes, and nonprofit organizations) for all years except the ones in which there is an audit requirement based upon the amount of Federal assistance received as required by paragraphs (q)(4)(i)(A) and (q)(4)(i)(B) of this section. Audits shall be on an annual basis unless otherwise prohibited and shall be supplied to FmHA as soon as possible but in no case later than 90 days following the period covered by the audit.

(A) *Gross annual income of $100,000 or more.* (*1*) Local governments and Indian tribes shall have audits made in accordance with State or local law or regulation or regulatory agency requirements. If no such requirements exist, audits shall be made in accordance with OMB Circular A–110 and paragraphs (q)(4)(i)(B)(*1*) and (*2*)(*iii*) of this section.

(*2*) All other organizations shall have audits in accordance with OMB Circular A–110 and paragraph (q)(4)(i)(B)(*1*) and (*2*)(*iii*) of this section.

(B) *Gross annual income of less than $100,000.* For borrowers that have a gross annual income of less than $100,000, the requirements for audits shall be at the discretion of the State Director. However, when audits are required, they shall be in accordance with paragraph (q)(4)(ii)(A) of this section.

(5) *Borrowers exempt from audits.* All borrowers who are exempt from audits, will, within 60 days following the end of each fiscal year, furnish the FmHA with annual financial statements, consisting of a verification of the organization's balance sheet and statement of income and expense by an appropriate official of the organization. Forms FmHA 442–2 and 442–3 may be used. For borrowers using Form FmHA 442–2, the dual purpose of fourth quarter management reports, when required, and annual statements of income will be met with this one submission.

(r) * * *

(1) * * *

(i) *The District Director* is responsible for obtaining all management report data from the borrower, promptly reviewing it and making any necessary recommendations to the borrower within 40 calendar days. However, after receiving management reports for borrowers whose FmHA indebtedness exceeds $1,000,000 and for delinquent and problem case borrowers, the District Director will forward them with comments to the State Director for review.

(ii) * * *

(C) * * *

(*4*) Has the State Director's written concurrence for all borrowers whose FmHA indebtedness exceeds $1,000,000.

(D) Borrowers qualifying for this exemption will still be required to submit a copy of their audits or annual financial statements.

(E) * * *

(F) The District Director or State Director may reinstate the requirements for submission of periodic management reports for those borrowers who became delinquent or otherwise are not carrying out their agreements with FmHA or require more frequent submission of management reports. This requirement will be reinstated for borrowers receiving a subsequent loan which will significantly alter the scope of the project.

* * * * *

(iii) *The State Director* is responsible for:

(A) The review of the District Director's submission for all borrowers whose indebtedness exceeds $1,000,000. The State Director will forward comments to the District Director in order that a response, if necessary, can be sent to the borrower within 40 calendar days after the borrower's submission of its management reports.

(B) The review of all delinquent and problem case borrower management reports. Ordinarily, review findings and instructions regarding further management assistance will be determined, and provided to the District Office within 20 calendar days of submission for delinquent and problem borrowers.

(C) Forwarding to the National Office copies of review findings, instructions for further assistance, and positive action plans on delinquent borrowers and borrowers experiencing financial problems, at same time the findings and instructions are provided to the District Office.

(2) *Audits and financial statements*—(i) *The District Director* is responsible for obtaining all audit reports and financial statements from the borrower. Those received from borrowers whose FmHA indebtedness exceeds $1,000,000 and from delinquent and problem case

borrowers will be promptly reviewed and forwarded to the State Director with appropriate comments.

(ii) *The District Director* is responsible for the review of audits and financial statements and for recommendations and instructions for borrower assistance. For borrowers required to have audits, in accordance with paragraph (q)(4)(i)(A) of this section, the District Director is also responsible for any necessary follow up required because of audit resolution items received from the cognizant agencies.

(iii) *The State Director* is responsible for the review of audits of borrowers whose indebtedness exceeds $1,000,000 and delinquent and problem case borrowers. The State Director may recommend to the District Director any necessary actions to be taken.

* * * * *

12. Section 1942.18 is amended by revising paragraphs (g), the introductory text of paragraph (j), (j)(2), the introductory text of paragraph (k)(4) and by adding a new paragraph (k)(4)(vi) to read as follows:

§ 1942.18 Community facilities-planning, bidding, contracting, constructing.

* * * * *

(g) *Sewage treatment and bulk water sales contracts.* Owners entering into agreements with private or public parties to treat sewage or supply bulk water shall have written contracts for such service and all such contracts shall be subject to FmHA concurrence. Paragraph (f) of this section should be used as a guide to prepare such contracts.

* * * * *

(j) *Owner's procurement regulations.* Owner's procurement regulations must comply with the following standards:

(1) * * *

(2) *Maximum open and free competition.* All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition. Procurement procedures shall not restrict or eliminate competition. Examples of what are considered to be restrictive of competition include, but are not limited to: Placing unreasonable requirements on firms in order for them to qualify to do business; noncompetitive practices between firms; organizational conflicts of interest; and unnecessary experience and bonding requirements. In specifying material(s), the owner and its consultant will consider all materials normally suitable for the project commensurate with sound engineering practices and project requirements. For a water or waste disposal facility, FmHA shall consider fully any recommendation made by the loan applicant or borrower concerning the technical design and choice of materials to be used for such a facility. If FmHA determines that a design or material, other than those that were recommended should be considered by including them in the procurement process as an acceptable design or material in the water or waste disposal facility, FmHA shall provide such applicant or borrower with a comprehensive justification for such a determination. The justification will be documented in writing.

* * * * *

(k) * * *

(4) *Noncompetitive negotiation.* Noncompetitive negotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is not feasible under small purchase, competitive sealed bids (formal advertising) or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiations are limited to the following:

* * * * *

(vi) The aggregate amount does not exceed $50,000.

* * * * *

13. Section 1942.19 is amended by revising paragraph (h)(2) to read as follows:

§ 1942.19 Information pertaining to preparation of notes or bonds and bond transcript documents for public body applicants.

* * * * *

(h) * * *

(2) *Bond registration.* Bonds will contain provisions permitting registration as to both principal and interest. Bonds purchased by FmHA will be registered in the name of "United States of America, Farmers Home Administration," and will remain so registered at all times while the bonds are held or insured by the United States. The address of FmHA for registration purposes will be that of the appropriate FmHA State Office.

* * * * *

14. Section 1942.20 is amended by adding new paragraphs (a)(27) and (a)(28) and revising paragraph (b) to read as follows:

§ 1942.20 Community facility guides.

(a) * * *

(27) Exhibit A—Circular No. A-128.

(28) Exhibit B—Department of Agriculture Regional Inspector General (OIG).

(b) These guides and exhibits are for use by FmHA officials, applicants and applicant's officials and/or agents on certain matters related to the planning, development, and operation of essential community facilities which involve the use of loans and/or grants from FmHA. This includes activities related to applying for and obtaining such financial assistance. These guides and exhibits are not published in the **Federal Register**, however, they are available in any FmHA office.

Date: January 26, 1988.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 88-4523 Filed 3-2-88; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 88-005]

Restrictions on Importation of Horses From Spain

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the regulations by including Spain among the countries in which Veterinary Services considers African horse sickness to exist.

EFFECTIVE DATE: April 4, 1988.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 810, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** and effective October 23, 1987 (52 FR 39616-39617, Docket Number 87-128), we amended § 92.11(d)(1)(ii) by including Spain among the countries in which Veterinary Services considers African horse sickness to exist. The restriction requires that horses intended for importation from these countries, including horses that have stopped in or transited a country that Veterinary Services considers affected with African horse sickness, must undergo a 60-day quarantine at the New York Animal Import Center, in Newburgh, New York

Comments on the interim rule were required to be postmarked or received on or before December 22, 1987. We received 2 comments, one in support of the interim rule and one that did not address it. The facts presented in the interim rule provide the basis for this final rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

We are continuing to allow U.S. importers to import horses from Spain, although we are requiring these horses to enter through the port of New York. All horses from countries where we consider African horse sickness to exist must enter through the port of New York. Because African horse sickness has spread to Spain, importers of horses from Spain must comply with the regulation in § 92.11(d)(1)(ii) to prevent the introduction of African horse sickness into the United States.

While importers of horses from Spain, accustomed to paying 3-day quarantine costs, will incur additional costs because of the 60-day quarantine, we do not expect this to have significant economic impact on a substantial number of small entities. Only a small number of horses are imported from Spain; our figures indicate an average of 20 per year.

Under these circumstances, the Acting Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Exeuctive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR Part 92 and that was published at 52 FR 39616–39617 on October 23, 1987.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 29th day of February 1988.

James W. Glosser,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–4678 Filed 3–2–88; 8:45 am]

BILLING CODE 3410–34–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545, 561, 563, 563c, and 570

[No. 88–131]

Definition of Regulatory Capital, Delay of Effective Date; Technical Amendment

Date: March 1, 1988.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; delay of effective date; technical amendment.

SUMMARY: On October 5, 1987, the Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation, delayed the effective date of its final rule concerning the Definition of Regulatory Capital ("DRC") (52 FR 39068 (Oct. 20, 1987)). The new effective date is January 1, 1989. However, the Board inadvertently failed to except from this delay § 563c.14(f) of the DRC. The Board intended for this paragraph to become effective January 1, 1988. By its action today, the Board corrects that error.

EFFECTIVE DATES: The effective date of the DRC regulation is January 1, 1989, except for 12 CFR 563c.14(f) which is effective January 1, 1988.

FOR FURTHER INFORMATION CONTACT: Christina M. Gattuso, Acting Regulatory Counsel, (202) 377–6649, Jerilyn Rogin, Attorney-Advisor, (202) 377–7018, Regulations and Legislation Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552; or W. Barefoot Bankhead, Professional Accounting Fellow, (202) 778–2538, Office of Regulatory Policy, Oversight and Supervision, Federal Home Loan Bank System, 900 Nineteenth Street NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: On October 5, 1987, the Board adopted a final rule delaying the effective date of its DRC regulation, adopted at 52 FR 18340 (May 15, 1987), from January 1, 1988 until January 1, 1989. The Board inadvertently failed to make an exception to the delay for § 563c.14(f), a part of the DRC rule, which recites a thrift's authority to exclude the unamortized amount of gain deferrals and to include the unamortized amount of loss deferrals in computing its regulatory capital only for those gain deferrals that have been excluded and loss deferrals that have been included in computing its regulatory capital prior to January 1, 1988. That authority was to have remained in effect only until January 1, 1988, consistent with the Competitive Equality Banking Act of 1987 provision that loan losses may be deferred "consistent with regulations in effect before the passage of the Thrift Industry Recovery Act" on August 10, 1987. See Competitive Equality Banking Act of 1987 ("CEBA"), Pub. L. No. 100–86, 101 Stat. 552, tit. IV, sec. 402(b), sec. 415(e).

In the preamble to the proposal of the Uniform Accounting Standards regulation, 52 FR 39145 (October 20, 1987), the Board provided the following explanation of its intent to leave unchanged the sunset date contained in § 563c.14(f). In spite of the delay of the effective date of the DRC regulation:

> * * * that action does not affect the sunset provision set forth in § 563c.14(f). In the Board's view, the sunset provision became effective on May 5, 1987, when the Board adopted the DRC regulation. Thus, consistent with the CEBA, institutions may only include

in regulatory capital those losses and gains that are deferred pursuant to § 563c.14 *prior to January 1, 1988.*

52 FR at 39150–51. (Emphasis supplied).

Moreover, in the preamble to the Uniform Accounting Standards final rule, adopted at 53 FR 324 (January 6, 1988) the Board further explained:

> The DLL regulation, § 563c.14, provides at paragraph (f) that authority to utilize DLL ceases *as of January 1, 1988.* 12 CFR 563c.14(f).

53 FR at 327. (Emphasis supplied).

Also in this final rule, the Board noted that modified equity capital

> * * * represents GAAP equity capital plus loan losses and gains deferred pursuant to 12 CFR 563c.14 provided that an institution has elected to defer such losses or gains *prior to January 1, 1988* * * *.

53 FR at 328. (Emphasis supplied).

In order to correct an inadvertent omission, and consistent with the Board's intent as evidenced by the foregoing quotations, the Board hereby makes a technical amendment to the delay of the effective date of the DRC final rule adopted on October 5, 1987 by explicitly excepting § 563c.14(f). Accordingly, pursuant to its authority under 12 U.S.C. 1421 *et seq.* and 12 U.S.C. 1724 *et seq.*, the Board hereby establishes the effective date of 12 CFR 563c.14(f) as January 1, 1988.

The Board wishes to take this opportunity to emphasize that today's action in no way affects an insured institution's authority, pursuant to § 561.13, to exclude from regulatory capital the amount of unamortized loan gain deferrals and include loss deferrals which were deferred pursuant to § 563c.14 as part of modified equity capital.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Assistant Secretary.

[FR Doc. 88–4691 Filed 3–2–88; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 36

[Docket No. 24929, Amdts. 21–61 and 36–14]

Noise Standards for Helicopters in the Normal, Transport and Restricted Categories; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In the February 5, 1988, issue of the **Federal Register** (53 FR 3534), the FAA published a final rule for noise standards for helicopters in the normal, transport and restricted categories. The final rule contains some errors that require correction. Some sections were incorrectly referenced, one of the reference points and an angle for Figure 1 was cited incorrectly, and one equation had a lower case letter when upper case letter should have been used. This document serves to correct these errors.

FOR FURTHER INFORMATION CONTACT: Mr. Steven R. Albersheim, (202) 267–3560.

Correction of the Final Rule

In consideration of the foregoing, 14 CFR Part 36 is corrected as follows:

Section H36.3 [Corrected]

1. In § H36.3(a) on page 3541, second column, change (i) to (1), (ii) to (2), (iii) to (3) and (iv) to (4).

Section H36.113 [Corrected]

2. In § H36.113(c)(2) on page 3546, first column, change (2) to (iii) and (iii) to (2).

Section H36.205 [Corrected]

3. In § H36.205(b)(3) on page 3547, first column, change angle ° to angle 0.

Section H36.205 [Corrected]

4. In § H36.205(f)(1)(i) on page 3551, first column, change SPlic to SPLic.

Section H36.205 [Corrected]

5. In § H36.205(f)(1)(i) on page 3551, second column, change L_rA_c to L_rA.

Section H36.205 [Corrected]

6. In § H36.205(g)(1)(a) on page 3551, second column, change (f)(i) to (f)(1).

Section H36.205 [Corrected]

7. In § H36.205(f)(4) on page 3551, second column, change (a) to (i) and in third column (b) to (ii); (c) to (iii) and (d) to (iv).

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division, Office of the Chief Counsel.

[FR Doc. 88–4662 Filed 3–2–88; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 87–CE–35–AD; Amdt. 39–5864]

Airworthiness Directives; Gulfstream Aerospace Models 112, 112B, 112TC, 112TCA, 114, and 114A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to the Gulfstream Aerospace Model 112 and 114 series airplanes, which requires inspections and repair as necessary in the area of the vertical stabilizer forward attachment to the fuselage. Reports have been received of cracks forming where the vertical stabilizer spar attaches to the fuselage structure. The actions specified in this AD will detect these cracks and the repair will preclude failure of the fuselage frame and vertical fin attachment fitting and subsequent loss of the airplane.

EFFECTIVE DATE: April 8, 1988.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Gulfstream Aerospace Service Bulletin (S/B) Nos. SB–112–72A and SB–114–23A, both dated August 31, 1987, applicable to this AD may be obtained from Gulfstream Aerospace Corporation, Wiley Post Airport, P.O. Box 22500, Oklahoma City, Oklahoma 73123; or this information may be examined at the Rules Docket, FAA, Office of the Regional Counsel, 601 East 12th St., Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Tom Dragset, Airplane Certification Branch, ASW–150, FAA, Southwest Region, Fort Worth, Texas 76193–0150; Telephone (817) 624–5155.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspections and repair as necessary in the area of the vertical stabilizer forward attachment to the fuselage on Gulfstream Aerospace Model 112 and 114 series airplanes was published in the **Federal Register** on December 1, 1987 (52 FR 45640). The proposal resulted from reports of cracks forming where the vertical stabilizer spar attaches to the fuselage structure on Gulfstream Model 112 and 114 series airplanes. To date there have been approximately 45 aircraft with cracks reported in this area. Should these cracks go undetected, the vertical stabilizer may fail and result in the loss

of the airplane. Since this condition is likely to exist or develop on other Gulfstream Aerospace Model 112, 112B, 112TC, 112TCA, 114, and 114A airplanes of the same type design, an AD was proposed which proposed inspections and repair as necessary in the area of the vertical stabilizer forward attachment to the fuselage in accordance with Gulfstream Aerospace S/B Nos. SB–112–72A or SB–114–23A as applicable.

Interested persons have been afforded an opportunity to comment on the proposal. One comment was received from a Model 112TCA owner who is in favor of the AD. In addition, he recommended inspection of some additional bolt locations in the vertical fin. Inspection of four additional bolt locations for looseness will be covered by a Gulfstream Service Letter and will not be included in the proposed AD. Accordingly, the proposal is being adopted without change.

The FAA has determined there are approximately 1,064 airplanes affected by this proposal. The inspection cost imposed by the proposed AD would be $35 per airplane for a total estimated cost of $37,240 to the private sector. If cracks are found, repairs must be made at the owner's expense.

Repairs are not considered a regulatory cost to the AD since owners/operators are required by other regulations to maintain their aircraft to specific safety and airworthiness standards. The FAA views the economic impact of this proposed AD to be negligible and concludes that a full regulatory evaluation is not warranted.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Gulfstream Aerospace (Rockwell): Applies to Models 112 and 112B (S/N's 1 through 544 and 13000); 112TC and 112TCA (S/N's 13001 through 13309); and 114 and 114A (S/N's 14000 through 14540) airplanes certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent failure of the vertical fin attachment fitting (P/N 43255–1) and the fuselage frame (P/N 43205–1) in the area of F.S. 230.5, accomplish the + following:

(a) Within the next 50 hours time-in-service (TIS), or upon the accumulation of 250 hours total TIS, whichever occurs later, inspect for cracks in fuselage frame (P/N 43205–1) and vertical fin attachment fitting (P/N 43255–1) in accordance with Part I of Gulfstream Aerospace Service Bulletin Nos. SB–112–72A or SB–114–23A, both dated August 31, 1987, as applicable.

(b) If cracks are found in the fuselage frame or vertical fin attachment fitting, prior to further flight repair in accordance with Part II of Gulfstream Aerospace Service Bulletin Nos. SB–112–72A or SB–114–23A, both dated August 31, 1987, as applicable.

(c) If no cracks are found, thereafter at intervals not to exceed 100 hours TIS reaccomplish the inspection as specified in paragraph (a) of this AD until the repair required by paragraph (b) of this AD is accomplished.

(d) The repetitive inspections specified in paragraph (c) of this AD may be discontinued when the airplane is modified as specified in paragraph (b) of this AD.

(e) The airplane may be flown in accordance with FAR 21.197 to a location where the repair can be performed.

(f) An equivalent method of compliance with this AD may be used if approved by the Manager, Airplane Certification Branch, DOT, FAA, Southwest Regional Office, Fort Worth, Texas 76193–0150, Telephone (817) 624–5150.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Gulfstream Aerospace Corporation, Wiley Post Airport, P.O. Box 22500, Oklahoma City, Oklahoma 73123; or may examine these documents at the FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on April 8, 1988.

Issued in Kansas City, Missouri, on February 23, 1988.

Paul K. Bohr,

Director, Central Region.

[FR Doc. 88–4409 Filed 3–2–88; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 87–NM–109–AD; Amdt. 39–5813]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which currently requires that the FAA-approved maintenance inspection program include inspections which will give no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI) listed in Boeing Supplemental Structural Inspection Document (SSID), No. D6–37089. As a result of a structural reassessment of the aft pressure bulkhead, the document has been revised to include some additional SSI's. This amendment requires operators of the candidate fleet airplanes to include, in their FAA-approved maintenance program, inspections which will give no less than the required DTR's for the additional SSI's listed in Revision B. of the SSID.

DATE: Effective April 8, 1988.

The incorporation by reference of certain publications listed in this regulation is approved by the Director of the Federal Register as of April 8, 1988.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen E. Schrader, Airframe Branch, ANM–120S; telephone (206) 431–1923. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington, 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal

Aviation Regulations to include an airworthiness directive requiring operators of the candidate fleet of Boeing Model 737 series airplanes to include, in their FAA-approved maintenance program, inspections which will give no less than the required damage tolerance ratings for the additional Structural Significant Items (SSI) listed in Revision B. of Boeing Supplemental Structural Inspection Document (SSID) No. D6–37089, was published in the **Federal Register** on October 1, 1987 (52 FR 36785).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the one comment received. The commenter, the Air Transport Association (ATA) of America, on behalf of its members, expressed no objection to the content of the AD.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 27 operators have 92 airplanes of U.S. registry that will be affected by this AD. It will take approximately 50 manhours per airplane to accomplish the required inspection, and approximately 100 manhours per operator to update its maintenance program. Estimating the average labor cost to be $40 per manhour, the cost to accomplish the inspections will be $184,000, and the cost to amend the maintenance programs will be $108,000. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $292,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because few, if any, model 737 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 139

Aviation safety, Aircraft, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By amending AD 84–21–06, Amendment 39–4933 (49 FR 42556; October 23, 1984), paragraph A. and paragraph E. to read as follows:

A. Within three months after the effective date of this Amendment, incorporate a revision into the FAA-approved maintenance inspection program which provides no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI) listed in Boeing Document No. D6–37089, Revision B, dated February 18, 1987, or later FAA-approved revisions. The required DTR value for each SSI is listed in the document.

The revision to the maintenance program shall include and be implemented in accordance with the procedures in Sections 5.0 and 6.0 of the SSID.

E. Operators who have acceptably incorporated Boeing Document No. D6–37089, Revision B, dated February 18, 1987, or later FAA-approved revisions, into their approved maintenance program are exempt from the provisions of this AD. Boeing Supplemental Structural Inspection Document D6–37089, Volumes I and II, Revision A, dated December 1984, and Revision B, dated February 1987, identified and described in this directive, are incorporated by reference and made a part hereof pursuant to 5 U.S.C. 552(a)(10).

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington, 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment become effective April 8, 1988.

Issued in Seattle, Washington, on February 25, 1988.

Wayne J. Barlow,

Director Northwest Mountain Region.

[FR Doc. 88–4547 Filed 3–2–88; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 87–ASO–18]

Alteration of Transition Area; Eastman, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Eastman, Georgia, transition area by adding an extension for a nondirectional radio beacon (NDB) standard instrument approach procedure to Runway 2 at the Eastman-Dodge County Airport. This action lowers the base of controlled airspace from 1,200 feet to 700 feet above the surface within three miles each side of the 203° bearing from the Eastman NDB (latitude 32°12'50" N, longitude 83°07'32" W) from the six-mile radius area of the Eastman-Dodge County Airport (latitude 32°12'51" N, longitude 83°07'42" W) to 8.5 miles southwest of the NDB.

EFFECTIVE DATE: 0901 U.t.c., March 10, 1988.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On December 8, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) altering the Eastman, Georgia, transition area (52 FR 48449). This action will provide additional controlled airspace for aircraft executing a new NDB standard instrument approach procedure to Runway 2 at the Eastman-Dodge County Airport. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Eastman, Georgia, transition area by lowering the base of controlled airspace from 1,200 feet to 700 feet above the surface within three miles each side of the 230° bearing from the Eastman NDB

from the six-mile radius area of the Eastman-Dodge County Airport to 8.5 miles southwest of the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. In consideration of the safety need to lower the base of the controlled airspace, I find that good cause exists for making this rule effective in less than 30 days in order to promote the safe and efficient hearing of air traffic in that area.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Public Law 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. by amending § 71.181 as follows:

Eastman, Georgia [Amended]

By adding the words to the end of the description "within three miles each side of the 203° bearing from the Eastman, Georgia, NDB (latitude 32°12'50" N, longitude 83°07'32" W), extending from the six-mile radius area to 8.5 miles southwest of the NDB."

Issued in East Point, Georgia, on February 9, 1988.

William D. Wood,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 88–4661 Filed 3–2–88; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 71 and 73

[Airspace Docket No. 87–ASO–9]

Alteration of Restricted Areas at Cape Canaveral, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action simplifies the restricted airspace associated with the Kennedy Space Center by consolidating existing restricted areas and changing the time of designation of each area to better reflect actual use. This action further changes the area location name to Cape Canaveral vice Cape Kennedy and amends the Continental Control Area to incorporate the restricted area redesignations.

EFFECTIVE DATE: 0901 UTC, May 5, 1988.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–9253.

SUPPLEMENTARY INFORMATION:

History

On December 21, 1987, the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to consolidate, redesignate and simplify the Kennedy Space Center Restricted Areas (52 FR 48274). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.151 and 73.29 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6C dated January 2, 1987.

The Rule

These amendments to Parts 71 and 73 of the Federal Aviation Regulations reconfigure the restricted areas used for space shuttle launches and recoveries and various other missile operations at the Kennedy Space Center. The changes simplify charting, enable more efficient use of airspace and enhance safety through aligning the areas to provide better compatibility of airspace activation consistent with the FAR 91.102 Space Flight Operations Area established for the Kennedy Space Center. In addition, the times of use are amended to better reflect actual needs and the Continental Control Area is updated to incorporate the reconfigured airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area, Restricted areas.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) are amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.151 [Amended]

2. Section 71.151 is amended as follows:

R–2921 Cape Kennedy, FL [Remove]
R–2922 Cape Kennedy, FL [Remove]
R–2925 Cape Kennedy, FL [Remove]
R–2926 Cape Kennedy, FL [Remove]
R–2927 Cape Kennedy, FL [Remove]
R–2928 Cape Kennedy, FL [Remove]
R–2930 Cape Kennedy, FL [Remove]
R–2931 Cape Kennedy, FL [Remove]
R–2931 Cape Canaveral, FL [New]
R–2933 Cape Canaveral, FL [New]
R–2934 Cape Canaveral, FL [New]
R–2935 Cape Canaveral, FL [New]

PART 73—SPECIAL USE AIRSPACE

3. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g)

(Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 73.29 [Amended]

4. Section 73.29 is amended as follows:

R–2921 Cape Kennedy, FL [Remove]
R–2922 Cape Kennedy, FL [Remove]
R–2923 Cape Kennedy, FL [Remove]
R–2924 Cape Kennedy, FL [Remove]
R–2925 Cape Kennedy, FL [Remove]
R–2926 Cape Kennedy, FL [Remove]
R–2927 Cape Kennedy, FL [Remove]
R–2928 Cape Kennedy, FL [Remove]
R–2930 Cape Kennedy, FL [Remove]

R–2931 Cape Kennedy, FL [Amended]

In the title, by removing the words "Cape Kennedy" and substituting the words "Cape Canaveral."

R–2932 Cape Canaveral, FL [New]

Boundaries. Beginning at lat. 28°39'20"N., long. 80°42'40"W.; to lat. 28°41'40"N., long. 80°35'00"W.; thence 3 nautical miles from and parallel to the shoreline; to lat. 28°25'00"N., long. 80°30'30"W.; to lat. 28°25'00"N., long. 80°38'00"W.; to lat. 28°34'00"N., long. 80°39'30"W.; to the point of beginning, excluding the area within a 2-statute-mile radius circle centered at lat. 28°27'54"N., long. 80°32'07"W.
Designated altitudes. Surface to but not including 5,000 feet MSL.
Time of designation. Continuous.
Controlling agency. FAA, Miami ARTCC.
Using agency. U.S. Air Force, Eastern Space and Missile Center/ROS, Cape Canaveral AFS, FL.

R–2933 Cape Canaveral, FL [New]

Boundaries. Beginning at lat. 28°39'20"N., long. 80°42'40"W.; to lat. 28°41'40"N., long. 80°35'00"W.; thence 3 nautical miles from and parallel to the shoreline; to lat. 28°25'00"N., long. 80°30'30"W.; to lat. 28°25'00"N., long. 80°38'00"W.; to lat. 28°34'00"N., long. 80°39'30"W.; to the point of beginning, excluding the area within a 2-statute-mile radius circle centered at lat. 28°27'54"N., long. 80°32'07"W.; from 5,000 feet MSL to and including 15,000 feet MSL.
Designated altitudes. 5,000 feet MSL to unlimited.
Time of designation. Intermittent, activated by NOTAM normally 24 hours in advance.
Controlling agency. FAA, Miami ARTCC.
Using agency. U.S. Air Force, Eastern Space and Missile Center/ROS, Cape Canaveral AFS, FL.

R–2934 Cape Canaveral, FL [New]

Boundaries. Beginning at lat. 28°49'10"N., long. 80°50'45"W.; to lat. 28°51'15"N., long. 80°47'15"W.; to lat. 28°51'15"N., long. 80°42'20"W.; thence 3 nautical miles from and parallel to the shoreline; to lat. 28°41'40"N., long. 80°35'00"W.; to lat. 28°39'20"N., long. 80°42'40"W.; to lat. 28°34'00"N., long. 80°39'30"W.; to lat. 28°25'00"N., long. 80°38'00"W.; to lat. 28°25'00"N., long. 80°41'45"W.; to lat. 28°31'20"N., long. 80°43'50"W.; to lat. 28°38'00"N., long. 80°47'02"W.; to the point of beginning, excluding that airspace below 1,200 feet AGL west of a line from lat. 28°31'20"N., long. 80°43'50"W.; to lat. 28°28'40"N., long. 80°40'30"W.; to lat. 28°25'00"N., long. 80°40'30"W.
Designated altitudes. Surface to unlimited.
Time of designation. Intermittent, activated by NOTAM normally 24 hours in advance.
Controlling agency. FAA, Miami ARTCC.
Using agency. U.S. Air Force, Eastern Space and Missile Center/ROS, Cape Canaveral AFS, FL.

R–2935 Cape Canaveral, FL [New]

Boundaries. Beginning at lat. 28°47'20"N., long. 81°05'00"W.; to lat. 28°58'00"N., long. 80°47'00"W.; thence 3 nautical miles from and parallel to the shoreline; to lat. 28°51'15"N., long. 80°42'20"W.; to lat. 28°51'15"N., long. 80°47'15"W.; to lat. 28°49'10"N., long. 80°50'45"W.; to lat. 28°38'00"N., long. 80°47'02"W.; to lat. 28°31'20"N., long. 80°43'50"W.; to lat. 28°25'00"N., long. 80°41'45"W.; to lat. 28°25'00"N., long. 80°30'30"W.; thence 3 nautical miles from and parallel to the shoreline; to lat. 28°19'00"N., long. 80°33'30"W.; to lat. 28°19'00"N., long. 80°46'30"W.; to the point of beginning.
Designated altitudes. 11,000 feet MSL to unlimited.
Time of designation. Intermittent, activated by NOTAM normally 24 hours in advance.
Controlling agency. FAA, Miami ARTCC.
Using agency. U.S. Air Force, Eastern Space and Missile Center/ROS, Cape Canaveral AFS, FL.

Issued in Washington, DC, on February 26, 1988.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88–4663 Filed 3–2–88; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 18

[Docket No. 70622–8019]

Implementation of the Equal Access to Justice Act

AGENCY: Office of the Secretary, Commerce.

ACTION: Final rule.

SUMMARY: The Department is revising its interim rule implementing the Equal Access to Justice Act (the "EAJA"). These amendments reflect recent amendments to the EAJA enacted by Congress, change the list of covered proceedings conducted under statutes administered by the National Oceanic and Atmospheric Administration and make procedural and clarifying changes.

EFFECTIVE DATE: April 4, 1988.

FOR FURTHER INFORMATION CONTACT: Andrew W. McCready, 202–377–5391, or at the address set forth above.

SUPPLEMENTARY INFORMATION: (a) This final rule is designed to implement amendments to the Equal Access to Justice Act (EAJA), Pub. L. 99–80, 99 Stat. 183, 5 U.S.C. 504. A notice of proposed rulemaking was published in the **Federal Register** on December 15, 1987 (52 FR 47597). No comments were received. Therefore, the Department is issuing this final rule as proposed on December 15, 1987, with minor editorial changes. The EAJA provides for the award of attorney fees and other expenses to qualified parties who prevail over the Federal Government in certain administrative and court proceedings. The EAJA requires that each agency establish uniform procedures for the submission and consideration of applications for an award of fees and other expenses. The EAJA, which had expired on September 30, 1984, was reauthorized by Pub. L. 99–80, which made several substantial changes to the EAJA. This rule reflects those changes and largely follows the model rule recommended by the Administrative Conference of the United States. See 51 FR 16659 (May 6, 1986).

(b) In reauthorizing the EAJA, Congress made the following amendments relevant to the Department:

1. The Act is applicable to cases commenced after October 1, 1984.

2. Net worth ceilings for eligible parties have been raised to $2,000,000 for individuals and $7,000,000 for partnerships, corporations and certain other entities.

3. Units of local government that fall under the ceilings for net worth and number of employees have been made eligible for fee awards.

4. The position of the agency that must be substantially justified has been specifically defined to include the underlying action or failure to act on which the relevant proceeding is based as well as the agency's position in litigation.

5. Whether or not the position of the agency was substantially justified is to be determined based on the administrative record of the proceeding as a whole adduced during the course of the adjudication for which fees and other expenses are sought.

6. Appeals of decisions made pursuant to section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before agency boards of contract appeals are included within the definition of "adversary adjudications," and thus are explicitly covered by the Act.

Further, the most significant of the additional changes the Department is making in the rule are as follows:

1. To substitute a broad definition of proceedings covered under the National Oceanic and Atmospheric Administration for the list of covered proceedings used in the interim rule.

2. To revise the settlement procedure for claims under the Act to provide that settlement by the applicant and agency counsel is to be in accordance with the component agency's standard settlement procedure.

3. To specify more detailed procedures for agency review of the adjudicative officer's decision regarding award of attorney fees.

4. To make clear that the General Services Administration Board of Contract Appeals (Board) is responsible for making determinations regarding the award of fees and other expenses on claims under the Act relating to appeals to the Board from decisions of contracting officers of the Department.

Executive Order 12291

The Department of Commerce has determined that this regulation is not a major rule as defined by Executive Order 12291 because it is not likely to result in (1) an annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or (3) significant adverse effects on competition, employment, investment, productivity or innovation.

Regulatory Flexibility Analysis

In accordance with section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), we have certified to the Chief Counsel for Advocacy, Small Business Administration that this rule will not have a significant economic impact upon a substantial number of small entities. The EAJA itself may provide economic benefits, because it allows individuals and businesses to recover attorney fees in connection with proceedings conducted against the Government. This rule however, simply implements the EAJA, carrying out congressional intention, and does not, by itself, impose significant economic burdens or benefits.

Paperwork Reduction Act of 1980

This rule is exempt from the requirements of the Paperwork Reduction Act of 1980 by virtue of 44 U.S.C. § 3518(c)(1)(B), which provides that the Paperwork Reduction Act does not apply to the collection of information during the conduct of an administrative action involving an agency against specific individuals or entities.

List of Subjects in 15 CFR Part 18

Equal Access to Justice.

PART 18—[AMENDED]

For the reasons stated in the preamble, 15 CFR Part 18 is amended as follows:

1. The authority citation for Part 18 is revised to read as follows:

Authority: 5 U.S.C. 504(c)(1).

2. Section 18.3 is revised to read as follows:

§ 18.3 When the Act applies.

The Act applies to any adversary adjudication pending or commenced before the Department on or after August 5, 1985. It also applies to any adversary adjudication commenced on or after October 1, 1984, and finally disposed of before August 5, 1985, provided that an application for fees and expenses, as described in sections 18.11–18.14 of this part, has been filed with the Department within 30 days after August 5, 1985, and to any adversary adjudication pending on or commenced on or after October 1, 1981, in which an application for fees and other expenses was timely filed and was dismissed for lack of jurisdiction.

3. Section 18.4 is amended by inserting an "s" at the end of "Proceeding" in the heading, and by revising the introductory text of paragraphs (a) and (a)(2) to read as follows:

§ 18.4 Proceedings covered.

(a) The Act applies to adversary adjudications conducted by the Department and to appeals of decisions of contracting officers of the Department made pursuant to section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before agency boards of contract appeals as provided in section 8 of that Act (41 U.S.C. 607). Adversary adjudications conducted by the Department are adjudications under 5 U.S.C. 554 in which the position of this or any other agency of the United States, or any component of an agency, is presented by an attorney or other representative who enters an appearance and participates in the proceeding. Pursuant to section 8(c) of the Contract Disputes Act (41 U.S.C. 607(c)), the Department has arranged for appeals from decisions by contracting officers of the Department to be decided by the General Services Administration Board of Contract Appeals. This Board, in accordance with its own procedures, shall be responsible for making determinations on applications pursuant to the Act relating to appeals to the Board from decisions of contracting officers of the Department. Such determinations are final, subject to appeal under section 18.23. Any proceeding in which the Department may prescribe a lawful present or future rate is not covered by the Act. Proceedings to grant or renew licenses are also excluded, but proceedings to modify, suspend, or revoke licenses are covered if they are otherwise "adversary adjudications." The Department proceedings covered are:

* * *

(2) National Oceanic and Atmospheric Administration ("NOAA")

(i) Proceedings concerning suspension, revocation, or modification of a permit or license issued by NOAA.

(ii) Proceedings to assess civil penalties under any of the statutes administered by NOAA.

* * * * *

4. Section 18.5 is amended by revising paragraphs (b)(1), (b)(2), (b)(5) and (g) to read as follows:

§ 18.5 Eligibility of applicants.

* * * * *

(b) * * *

(1) An individual with a net worth of not more than $2 million.

(2) The sole owner of an unincorporated business who has a net worth of not more than $7 million, including both personal and business interests, and not more than 500 employees;

* * * * *

(5) Any other partnership, corporation, association, unit of local government, or organization with a net worth of not more than $7 million and not more than 500 employees.

* * * * *

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

5. Section 18.6 is amended by revising paragraph (a) to read as follows:

§ 18.6 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceedings, unless the position of the Department over which the applicant has prevailed was substantially justified. The position of the Department includes, in addition to the position taken by the Department in the adversary adjudication, the action or failure to act by the Department upon which the adversary adjudication is based. The burden of proof that an award should not be made to an eligible prevailing applicant because the Department's position was substantially justified is on the agency counsel.

* * * * *

6. Section 18.7 is amended by revising paragraph (b) to read as follows:

§ 18.7 Allowable fees and expenses.

* * * * *

(b) No award for the fee of an attorney or agent under this rule may exceed $75.00 per hour. No award to compensate an expert witness may exceed the highest rate at which the Department pays expert witnesses. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent, or witness ordinarily charges clients separately for such expenses.

* * * * *

7. Section 18.11 is amended by correcting the spelling of the word statement in paragraph (b)(1) and by revising the first sentence of paragraph (b) introductory text to read as follows:

§ 18.11 Contents of application.

* * * * *

(b) The application shall also include a statement that the applicant's net worth does not exceed $2 million (if an individual) or $7 million (for all other applicants, including their affiliates). * * *

§ 18.12 [Amended]

8. Section 18.12 is amended by striking "§ 18.4(f)" in the first sentence of paragraph (a) and inserting "§ 18.5(f)" in lieu thereof, by striking the comma after "labeled" in the second sentence of paragraph (b) and by striking the "s" in "exhibits" in the last sentence of paragraph (b).

9. Section 18.14 is amended by revising paragraphs (b) and (c) to read as follows:

§ 18.14 When an application may be filed.

* * * * *

(b) For purposes of this rule, final disposition means the date on which a decision or order disposing of the merits of the proceeding or any other complete resolution of the proceeding, such as a settlement or voluntary dismissal, becomes final and unappealable, both within the agency and to the courts.

(c) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy. When the United States appeals the underlying merits of an adversary adjudication to a court, no decision on an application for fees and other expenses in connection with that adversary adjudication shall be made until a final and unreviewable decision is rendered by the court on the appeal or until the underlying merits of the case have been finally determined pursuant to the appeal.

§ 18.16 [Amended]

10. Section 18.16 is amended by striking "the Department's" in the first sentence of paragraph (c) and inserting "agency counsel's" in lieu thereof.

§ 18.18 [Amended]

11. Section 18.18 is amended by striking "the Department" in the first sentence and inserting "agency counsel" in lieu thereof.

12. Section 18.19 is amended by striking the final "s" in the heading and by revising the first sentence to read as follows:

§ 18.19 Settlement.

The applicant and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded, in accordance with the component agency's standard settlement procedure. * * *

13. Section 18.20 is amended by revising paragraph (a) to read as follows:

§ 18.20 Further proceedings.

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or agency counsel, or on his or her own initiative, the adjudicative officer may order further proceedings, such as an informal conference, oral argument, additional written submissions or, as to issues other than substantial justification (such as the applicant's eligibility or substantiation of fees and expenses), pertinent discovery or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible. Whether or not the position of the agency was substantially justified shall be determined on the basis of the administrative record, as a whole, which is made in the adversary adjudication for which fees and other expenses are sought.

* * * * *

§ 18.21 [Amended]

14. Section 18.21 is amended by inserting "calendar" between "30" and "days" in the first sentence of the paragraph.

15. Section 18.22 is revised to read as follows:

§ 18.22 Agency review.

Either the applicant or agency counsel may file a petition for review of the initial decision on the fee application, or the Department may decide to review the decision on its own initiative. The petition must be filed with the General Counsel, Office of the Assistant General Counsel for Administration, Rm. 5882, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230, not later than 30 calendar days after the initial decision is issued. For purposes of this section, a document will be considered filed with the General Counsel as of the date of the postmark (or for government penalty mail, as shown by a certificate of mailing), if mailed, or if not mailed, as of the date actually delivered to the Office of General Counsel. A petition for review must be accompanied by a full written statement in support thereof, including a precise statement of why the petitioner believes the initial decision should be reversed or modified, and proof of service upon all parties. A response to the petition may be filed by another party to the proceeding and must be filed with the General Counsel at the above address not more than 30 calendar days after the date of service of the petition for review. The General Counsel may request any further submissions deemed helpful in resolving the petition for review. If neither the applicant nor agency counsel seeks review and the Department does not take review on its own initiative, the initial decision on the application shall become a final decision of the Department 30 calendar days after it is issued. Whether to review a decision is a matter within the discretion of the General Counsel. If review is taken, the

General Counsel will issue the Department's final decision on the application or remand the application to the adjudicative officer for further proceedings. The standard of review exercised by the General Counsel shall be that which was required for the highest level of Departmental review which could have been exercised on the underlying covered proceeding.

§ 18.24 [Amended]

16. Section 18.24 is amended by striking "statement" in the first sentence and inserting "certification" in lieu thereof and by inserting "calendar" between "60" and "days" in the last sentence of the paragraph.

Date: February 17, 1988.

Robert H. Brumley,

Deputy General Counsel.

[FR Doc. 88-4621 Filed 3-2-88; 8:45 am]

BILLING CODE 3510-BW-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8184]

Income Taxes; Special Rules Relating to Nuclear Decommissioning Costs

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the Federal income tax treatment of nuclear decommissioning costs. Changes to the applicable law were made by the Tax Reform Act of 1984 and the Tax Reform Act of 1986. The regulations affect all taxpayers that include nuclear decommissioning costs in cost of service for ratemaking purposes.

DATE: The regulations are effective on July 18, 1984, and apply with respect to taxable years ending on or after such date.

FOR FURTHER INFORMATION CONTACT: William L. Blagg of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR:T, 202-566-3828 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Sections 88 and 468A of the Internal Revenue Code of 1986 (the Code) were added by subsections (f) and (c), respectively, of section 91 of the Tax Reform Act of 1984 (Pub. L. 98-369; 98 Stat. 598). In addition, sections 88 and 468A were amended by section 1807(a)(4) of the Tax Reform Act of 1986 (Pub. L. 99-514; 100 Stat. 2812). On July 10, 1986, the **Federal Register** published amendments (T.D. 8094; 51 FR 25033) to the Income Tax Regulations (26 CFR Part 1) and the Table of OMB Control Numbers (26 CFR Part 602) to provide temporary regulations under sections 88 and 468A. The same issue of the **Federal Register** also published proposed amendments (51 FR 25070) to the Income Tax Regulations and the Table of OMB Control Numbers based on those temporary regulations. This document supersedes the temporary regulations under sections 88 and 468A and adopts final regulations based on the notice of proposed rulemaking published on July 10, 1986.

Before adopting the final regulations, the Internal Revenue Service solicited comments and held a public hearing on the proposed amendments. Fourteen written comments responding to the notice of proposed rulemaking were received. In addition, three persons provided oral comments at the public hearing held on October 22, 1986. After consideration of all comments received, the proposed amendments are adopted as revised by this Treasury decision.

Public Comments

I. Inclusion of Decommissioning Costs in Gross Income (§ 1.88-1).

One commentator requested guidance with respect to the treatment of amounts collected for decommissioning by municipalities that do not own or operate a nuclear power plant, but are contractually obligated to pay a percentage of the decommissioning costs incurred by the owner/operator (or lessee/operator). Several municipalities have been collecting decommissioning costs from their customers and have been contributing the amounts collected to a fund maintained by the municipality. The commentator contends that amounts collected for decommissioning by municipalities should not be included in the gross income of the owner/operator (or lessee/operator) because the municipality is liable for a fixed percentage of the decommissioning costs incurred by the owner/operator (or lessee/operator). In addition, the commentator contends that such amounts should not be currently taxed to the owner/operator (or lessee/operator) because section 88 applies only to traditional cost-of-service ratemaking proceedings and not to privately-negotiated life-of-unit contracts that are filed with the Federal Energy Regulatory Commission.

The Internal Revenue Service believes that the amount of decommissioning costs included in the cost of service of a taxpayer that holds a qualifying interest in a nuclear power plant for any taxable year include all decommissioning costs that consumers are liable to pay by reason of electric energy furnished by the taxpayer during such taxable year even if such costs are not payable to (or on behalf of) the taxpayer until decommissioning occurs.

The owner/operator (or lessee/operator) of a nuclear power plant should not be able to avoid the current inclusion of such amounts in income by entering into a contract which provides that another person is liable for a percentage of the decommissioning costs to be incurred by the owner/operator (or lessee/operator). Otherwise, the taxpayer could achieve the equivalent of a section 468A deduction without complying with the rules that prohibit self-dealing and restrict the investments of a nuclear decommissioning fund.

Therefore, the final regulations provide that decommissioning costs directly or indirectly charged to the customers of a taxpayer include all decommissioning costs that consumers are liable to pay by reason of electric energy furnished by the taxpayer during the taxable year, whether payable to the taxpayer, a trust, State government, or other entity (other than a holder of a leasehold interest in any portion of the nuclear power plant if such interest is a qualifying interest within the meaning of paragraph (b)(2)(ii) of § 1.468A-1), and even though the taxpayer may not control the investment or current expenditure of the amount and the amount may not be paid to the taxpayer at the time decommissioning costs are incurred. In addition, the final regulations contain an example that illustrates the treatment of amounts collected for decommissioning by a municipality that does not possess a qualifying interest in a nuclear power plant but is contractually obligated to pay a percentage of the decommissioning costs incurred by the owner/operator (or lessee/operator).

II. Nuclear Decommissioning Costs; Definitions and General Rules (§ 1.468A-1).

Seveal commentators objected to the definition of the term "eligible taxpayer." Most of these commentators believe that the term should include the lessee of a nuclear power plant especially if the lessee is primarily liable

for decommissioning the nuclear power plant. Another commentator believes that the owner of stock in a non-profit corporation which owns an experimental nuclear facility should be allowed to make deductible contributions to a nuclear decommissioning fund established with respect to such experimental facility. The temporary regulations do not allow the owner of the stock to establish a nuclear decommissioning fund because (1) the experimental facility is not used predominantly in the trade or business of the furnishing or sale of electric energy and (2) the facility is owned directly by the non-profit corporation and not by the owner of stock in the non-profit corporation.

The final regulations permit the lessee of a nuclear power plant to establish a nuclear decommissioning fund with respect to the leasehold interest if (1) the lessee is subject to the jurisdiction of a public utility commission with respect to the nuclear power plant, (2) the lessee is primarily liable under Federal or State law for decommissioning the portion of the nuclear power plant to which the leasehold interest relates and (3) no other person establishes a nuclear decommissioning fund with respect to the portion of the nuclear power plant to which the leasehold interest relates.

In addition, the final regulations provide that a person possessing a qualifying interest in an experimental nuclear facility may establish a nuclear decommissioning fund with respect to the facility if (1) such person is engaged in the trade or business of the furnishing or sale of electric energy, (2) the rates charged for electric energy furnished or sold by such person are established or approved by a public utility commission, and (3) the cost of decommissioning the facility is included in the cost of service of such person. In addition, a person that satisfies these conditions and owns stock in a corporation that owns an experimental nuclear facility may establish a nuclear decommissioning fund with respect to the facility if the corporation that directly owns the facility is not engaged in the trade or business of the furnishing or sale or electric energy.

Another commentator suggested that the members of an affiliated group of corporations that join in the filing of a consolidated return (a "consolidated group") should be treated as a single taxpayer for all purposes under the regulations. The commentator believes that (1) a single nuclear decommissioning fund should be allowed with respect to a nuclear power plant that is owned by several corporations that are members of a consolidated group and (2) the consolidated group should be allowed to file a single request for a schedule of ruling amounts.

Although the final regulations do not treat the members of a consolidated group as a single taxpayer for purposes of section 468A, changes have been made to reduce the administrative burden imposed on members of a consolidated group. First, the nuclear decommissioning fund qualification requirements have been modified to permit a single trust for two or more nuclear decommissioning funds. In addition, if certain conditions are satisfied (see Part VI below), the assets of two or more nuclear decommissioning funds can be commingled by the trustee for the purpose of making permissible investments. Finally, the regulations provide that the common parent of a consolidated group may request a schedule of ruling amounts for each member of the group that possesses a qualifying interest in the same nuclear power plant by filing a single submission with the Internal Revenue Service.

III. Treatment of Electing Taxpayer (§ 1.468A–2).

Two commentators believe that post-ratemaking proceedings of a public utility commission should be considered in determining the cost of service amount. A third commentator suggested that utilities should be permitted to establish the cost of service amount for periods prior to the issuance of the regulations based on their own books and records (rather than the records of a ratemaking proceeding). The Internal Revenue Service believes that it is inappropriate to adopt a rule of general application that considers post-rate-making proceedings in determining the cost of service amount. The final regulations provide, however, that the cost of service amount for any taxable year that begins before January 1, 1987, shall include decommissioning costs that can be accurately determined from information contained in the regulated books of account or other written records of the taxpayer.

Several commentators believe that amounts remaining in the nuclear decommissioning fund upon substantial completion of decommissioning, should not be included in the gross income of the electing taxpayer if the electing taxpayer is not permitted to retain such amounts. The temporary regulations provide an exclusion for amounts that an electing taxpayer is required to refund to customers within one year after the substantial completion of decommissioning. The commentators suggest that no amount should be included in gross income even if the public utility commission requires the excess to be refunded over a longer period or requires the excess to be paid to an energy conservation program or other similar program.

The Internal Revenue Service has reconsidered the "refund" exception to the general rule that amounts distributed from a nuclear decommissioning fund must be included in gross income for the taxable year in which the distribution occurs and has determined that the exception is inappropriate. In order to properly reflect the time value of money, amounts remaining in a nuclear decommissioning fund upon substantial completion of decommissioning are includible in the gross income of the electing taxpayer for the taxable year that includes the date of substantial completion of decommissioning and amounts refunded to ratepayers are deductible for the taxable year in which section 461(h) is satisfied.

IV. Ruling Amount (§ 1.468A–3).

One commentator believes that the periods used to determine the qualifying percentage (i.e., the estimated period for which a nuclear decommissioning fund is to be in effect and the estimated useful life of a nuclear power plant) should be based on the length of the operating license granted by the Nuclear Regulatory Commission. The commentator contends that the definition of qualifying percentage contained in the temporary regulations (which is generally based on the ratemaking assumptions used by the public utility commission during the first ratemaking proceeding in which the nuclear power plant was included in rate base) is inequitable and inconsistent with congressional intent.

The final regulations provide that in the case of a nuclear power plant that began commercial operations before July 18, 1984, a taxpayer may elect to compute the qualifying percentage by assuming that the estimated period for which the nuclear decommissioning fund is to be in effect and the estimated useful life of the nuclear power plant end on the last day of the taxable year that includes the expiration date of the Nuclear Regulatory Commission operating license as in effect on July 18, 1984, but without regard to extensions or amendments thereto.

Several commentators believe that the Service should provide a ruling amount for a taxable year even if the request for a schedule of ruling amounts that includes a proposed ruling amount for

such taxable year is filed after the 180th day of the taxable year. The commentators contend that it is unfair for a taxpayer to be denied an initial or revised ruling amount for a taxable year if a rate order permitting recovery of decommissioning costs is received after the 180th day of the taxable year.

The final regulations provide that the Internal Revenue Service shall not provide or revise a ruling amount applicable to any taxable year in response to a request for a schedule of ruling amounts that is filed after the 15th day of the third calendar month following the close of the taxable year. In addition, the final regulations permit taxpayers that have filed a timely request for an initial or revised ruling amount for a taxable year to make deductible contributions to a nuclear decommissioning fund prior to the receipt of the initial or revised ruling amount for such taxable year. The amount of the contribution may not exceed the ruling amount proposed by the taxpayer for such taxable year. If the ruling amount provided by the Internal Revenue Service for such taxable year is less than amount proposed by the taxpayer and an excess contribution results, the amount of the excess contribution must be withdrawn by the taxpayer.

V. Treatment of Nuclear Decommissioning Fund (§ 1.468A–4).

One commentator requested clarification on whether gain or loss is recognized by a nuclear decommissioning fund that exchanges a municipal bond for another municipal bond if there are no material differences in the terms of the bonds. Revenue Ruling 56–435, 1956–2 C.B. 506, and Revenue Ruling 81–169, 1981–1 C.B. 429, provide that the exchange of a municipal bond for another municipal bond is not a taxable transaction if there are no material differences in the terms of the bonds. Nothing in the final regulations limits the applicability of these revenue rulings. Accordingly, the rulings apply to municipal bonds exchanged by nuclear decommissioning funds.

VI. Nuclear Decommissioning Fund Qualification Requirements, Etc. (§ 1.468A–5).

Several commentators requested clarifications and changes with respect to the number of nuclear decommissioning funds that are required under the temporary regulations. Some of these commentators believe that a single nuclear decommissioning fund should be allowed for two or more nuclear power plants or for two or more electing taxpayers. Other commentators believe that two or more nuclear decommissioning funds should be allowed for a single nuclear power plant especially if two or more public utility commissions that establish or approve rates for electric energy generated by the nuclear power plant require separate funds. Finally, two commentators requested that the regulations permit the assets of two or more funds to be invested on a pooled or commingled basis.

The final regulations require a separate nuclear decommissioning fund for each electing taxpayer and for each nuclear power plant with respect to which the electing taxpayer possesses a qualifying interest. The final regulations provide, however, that two or more nuclear decommissioning funds can be established and maintained pursuant to a single trust agreement. In addition, the assets of two or more funds can be pooled by the trustee for the purpose of making permissible investments if (1) the trustee of each nuclear decommissioning fund separately accounts for the contributions, earnings, expenses and distributions of such fund, (2) the earnings and expenses are reasonably apportioned among the pooled funds, and (3) the books and records of such funds enable the Internal Revenue Service to verify that the requirements of section 468A and the regulations are satisfied.

The final regulations also provide that an electing taxpayer can maintain only one nuclear decommissioning fund for each nuclear power plant with respect to which the taxpayer elects the application of section 468A. If a nuclear power plant is subject to the ratemaking jurisdiction of two or more public utility commissions and any such public utility commission requires a separate fund to be maintained for the benefit of ratepayers whose rates are established or approved by the public utility commission, the separate funds maintained for the plant shall be considered a single nuclear decommissioning fund for purposes of section 468A and the regulations. Thus, for example, the Internal Revenue Service shall issue one schedule of ruling amounts with respect to the nuclear power plant, the nuclear decommissioning fund must file a single income tax return, and, if the Internal Revenue Service disqualifies the nuclear decommissioning fund, the assets of each separate fund are treated as distributed on the date of disqualification.

Several commentators believe that electing taxpayers should be allowed to contribute permissible investments to a nuclear decommissioning fund especially if such investments were made before the issuance of the regulations. In addition, two commentators believe that an electing taxpayer that purchased permissible investments before the issuance of the regulations should be allowed to contribute such investments to a nuclear decommissioning fund without the recognition of gain or loss upon the transfer.

Unlike section 192(c)(4) (relating to black lung benefit trusts) and section 468B(d)(1) (relating to designated settlement funds), section 468A does not authorize the contribution of permissible investments or other property to a nuclear decommissioning fund. Nevertheless, the final regulations provide that an electing taxpayer may contribute permissible investments to a nuclear decommissioning fund for a taxable year that ends on or after July 18, 1984, and begins before the date of publication of the final regulations if the investments were acquired by the taxpayer after July 18, 1984 and before the date of publication of the final regulations. Under the final regulations, the transfer of the investments to the nuclear decommissioning fund shall be considered a sale or exchange for purposes of section 1001. Except as provided in this transitional rule, a nuclear decommissioning fund is not allowed to accept any contributions other than cash contributions that are deductible under section 468A.

One commentator asked whether the assets of a nuclear decommissioning fund can be invested in an annuity contract or mutual fund if the assets of the annuity contract or mutual fund are invested solely in public debt securities of the United States, obligations of a State or local government, or time or demand deposits. The final regulations provide that the assets of a nuclear decommissioning fund must be invested directly in public debt securities of the United States, obligations of a State or local government, or time or demand deposits. Thus, annuity contracts and mutual funds are not permissible investments of a nuclear decommissioning fund.

Another commentator requested clarification with respect to the definition of public debt securities of the United States. The regulations provide that the term public debt securities of the United States means obligations that are taken into consideration for purposes of the public debt limit. The Bureau of Public Debt has informed the Internal Revenue Service that the only

outstanding obligations that are taken into account for purposes of the public debt limit and that are generally available for purchase are Treasury bills, Treasury notes, Treasury bonds, and savings bonds.

A few commentators objected to the definition of substantial completion of decommissioning contained in the temporary regulations. Under that definition, substantial completion of decommissioning occurs at the time the maximum acceptable radioactivity levels mandated by the Nuclear Regulatory Commission with respect to a decommissioned nuclear power plant are satisfied. One commentator believes that the definition of substantial completion of decommissioning should be modified to accommodate special or individual circumstances. A second commentator recommends that substantial completion of decommissioning occur when (1) all decommissioning activities (including physical security and radiation monitoring) are completed or (2) the taxpayer or the public utility commission determines that decommissioning activities have been completed. A third commentator believes that a nuclear decommissioning fund should not be considered terminated, even upon substantial completion of decommissioning, if the applicable public utility commission reasonably requires a nuclear decommissioning fund to be maintained.

The final regulations adopt the definition of substantial completion of decommissioning that was contained in the temporary regulations with a minor modification. If a significant portion of the total estimated decommissioning costs with respect to a nuclear power plant are not incurred as of the date that the maximum acceptable radioactivity levels mandated by the Nuclear Regulatory Commission with respect to a decommissioned nuclear power plant are satisfied, the taxpayer may request, and the Internal Revenue Service shall issue, a ruling that designates the date on which substantial completion of decommissioning occurs. The date designated in the ruling shall not be later than the last day of the third taxable year after the taxable year in which the maximum acceptable radioactivity levels mandated by the Nuclear Regulatory Commission with respect to a decommissioned nuclear power plant are satisfied.

VII. Disposition of an Interest in a Nuclear Power Plant (§ 1.468A–6).

The temporary regulations treated a disposition of an interest in a nuclear power plant as a deemed distribution by the nuclear decommissioning fund that relates to the transferred interest. As a result of this treatment, the amount of the deemed distribution is included in gross income by the transferor of the interest and the nuclear decommissioning fund recognizes gain or loss on the assets involved in the deemed distribution.

The Internal Revenue Service received several comments criticizing this rule and is reconsidering the rule in light of these comments. Accordingly, the final regulations do not include rules relating to the disposition of an interest in a nuclear power plant. Proposed regulations on this subject will be published in the future.

VIII. Manner of and Time for Making Election (§ 1.468A–7).

Two commentators requested guidance on how the members of a consolidated group are to elect the application of section 468A. The final regulations require the common parent of the consolidated group to make a separate election on behalf of each member of the group that deducts payments under section 468A for a taxable year. The election is made on behalf of a member by providing the name, address and taxpayer identification number of the member, together with all other required information, on an election statement that is attached to the consolidated return for the taxable year.

IX. Effective Date and Transitional Rules (§ 1.468A–8).

A number of comments on the effective date and transitional rules are discussed in the context of the substantive rules to which the comments relate. In addition, one commentator believes that the addition to tax for the failure to pay estimated taxes for a taxable year beginning before January 1, 1987, should not apply if a deduction under section 468A for such taxable year would have eliminated the estimated tax. The final regulations adopt this suggestion.

X. Miscellaneous comments.

The Internal Revenue Service received a number of comments in addition to those summarized above. Some of the suggestions contained in the comments have been adopted in the final regulations. Other suggested changes were rejected primarily because the suggested changes were inconsistent with section 468A as amended by section 1807(a)(4) of the Tax Reform Act of 1986.

Special Analyses

The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291 and therefore a Regulatory Impact Analysis is not required. Although a notice of proposed rulemaking soliciting public comments was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The collection of information requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act.

Drafting Information

The principal author of these regulations is C. Scott McLeod of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects

26 CFR 1.61–1 through 1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR 1.441–1 through 1.483–2

Income taxes, Accounting, Deferred compensation plans.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

For the reasons set out in the preamble, Subchapter A, Part 1, and Subchapter H, Part 602, of Title 26, Chapter I of the Code of Federal Regulations are amended as set forth below:

PART 26—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority for Part 1 is amended by removing the following citation:

Section 1. 468A–5T also issued under 26 U.S.C. 468A(e)(5).

Par. 2. 26 CFR Part 1 is amended by removing § 1.88–1T and § 1.468A–1T through § 1.468A–8T.

Par. 3. The authority for Part 1 is amended by adding the following citation:

Authority 26 U.S.C. 7805. * * * Section 1.468A–5 also issued under 26 U.S.C. 468A(e)(5).

Par. 4. The following new section is added immediately after § 1.85–1 to read as follows:

§ 1.88–1 Nuclear decommissioning costs.

(a) *In general.* Section 88 provides that the amount of nuclear decommissioning costs directly or indirectly charged to the customers of a taxpayer that is engaged in the furnishing or sale of electric energy generated by a nuclear power plant must be included in the gross income of such taxpayer in the same manner as amounts charged for electric energy. For this purpose, decommissioning costs directly or indirectly charged to the customers of a taxpayer include all decommissioning costs that consumers are liable to pay by reason of electric energy furnished by the taxpayer during the taxable year, whether payable to the taxpayer, a trust, State government, or other entity, and even though the taxpayer may not control the investment or current expenditure of the amount and the amount may not be paid to the taxpayer at the time decommissioning costs are incurred. However, decommissioning costs payable to a taxpayer holding a qualified leasehold interest (as described in paragraph (b)(2)(ii) of § 1.468A–1) are included in the gross income of such taxpayer, and not in the gross income of the lessor.

(b) *Examples.* The following examples illustrate the application of the principles of paragraph (a) of this section:

Example (1). X corporation, an accrual method taxpayer engaged in the sale of electric energy generated by a nuclear power plant owned by X, is authorized by the public utility commission of State A to collect nuclear decommissioning costs from ratepayers residing in State A. With respect to the sale of electric energy, X includes in income amounts that have been billed to customers as well as estimated unbilled amounts that relate to energy provided by X after the previous billing but before the end of the taxable year ("accrued unbilled amounts"). The decommissioning costs are included in the monthly bills provided by X to its ratepayers and the entire amount billed is remitted directly to X. Under paragraph (a) of this section, the decommissioning costs must be included in the gross income of X in the same manner as amounts charged for electric energy (*i.e.*, by including in income decommissioning costs that relate to amounts billed as well as decommissioning costs that relate to accrued unbilled amounts). The same rule would apply if the decommissioning costs charged to ratepayers were separately billed and the amounts billed were remitted to State A to be held in trust for the purpose of decommissioning the nuclear power plant owned by X. In that case, X must include in gross income decommissioning costs that relate to amounts billed as well as decommissioning costs that relate to accrued unbilled amounts.

Example (2). Assume the same facts as in Example (1), except that X and M, a municipality located in State A, have entered into a life-of-unit contract pursuant to which (i) M is entitled to 20 percent of the electric energy generated by the nuclear power plant owned by X, and (ii) M is obligated to pay 20 percent of the plant operating costs, including decommissioning costs, incurred by X. Under paragraph (a) of this section, the decommissioning costs that relate to electric energy consumed or distributed by M during any taxable year must be included in the gross income of X for such taxable year. The result contained in this example would be the same if M was a State or an agency or instrumentality of a State or a political subdivision thereof.

(c) *Cross reference.* For special rules relating to the deduction for amounts paid to a nuclear decommissioning fund, see § 1.468A–1 through § 1.468A–5, 1.468A–7, 1.468A–8.

(d) *Effective date.* (1) Section 88 and this section apply to nuclear decommissioning costs directly or indirectly charged to the customers of a taxpayer on or after July 18, 1984, and with respect to taxable years ending on or after such date.

(2) If the amount of nuclear decommissioning costs directly or indirectly charged to the customers of a taxpayer before July 18, 1984, was includible in gross income in a different manner than amounts charged for electric energy, such amount must be included in gross income for the taxable year in which includible in gross income under the method of accounting of the taxpayer that was in effect when such amount was charged to customers.

Par. 5. The following new sections are added in the appropriate places:

§ 1.468A–0 Nuclear decommissioning costs; table of contents.

This section lists the paragraphs contained in §§ 1.468A–1 through 1.468A–8.

§ 1.468A–1 Nuclear decommissioning costs; general rules.

(a) Introduction.
(b) Definitions.
(c) Special rules applicable to certain experimental nuclear facilities.

§ 1.468A–2 Treatment of electing taxpayer.

(a) In general.
(b) Limitation on payments to a nuclear decommissioning fund.
(1) In general.
(2) Cost of service amount.
(c) Deemed payment rules.
(d) Treatment of distributions.
(1) In general.
(2) Exceptions to inclusion in gross income.
(i) Payment of administrative costs and incidental expenses.
(ii) Withdrawals of excess contributions.
(iii) Actual distributions of amounts included in gross income as deemed distributions.
(e) Deduction when economic performance occurs.
(f) Effect of interim rate orders and retroactive adjustments to such orders.
(1) In general.
(2) Special rule permitting withdrawal of excess contribution that results from retroactive adjustment to interim rate order.
(3) Revised schedule of ruling amounts.
(4) Example.

§ 1.468A–3 Ruling amount.

(a) In general.
(b) Level funding limitation.
(c) Funding period.
(1) General rule.
(2) Examples.
(d) Decommissioning costs allocable to a fund.
(1) General rule.
(2) Total estimated cost of decommissioning.
(3) Taxpayer's share.
(4) Qualifying percentage.
(e) Determination of estimated dates.
(f) Special rules in the case of rates established or approved by two or more public utility commissions.
(g) Requirement of determination by public utility commission of decommissioning costs to be included in cost of service.
(h) Manner of requesting schedule of ruling amounts.
(1) In general.
(2) Information required.
(3) Administrative procedures.
(i) Review and revision of schedule of ruling amounts.
(1) Mandatory review.
(2) Elective review.
(3) Determination of revised schedule of ruling amounts.
(j) Special rule permitting payments to a nuclear decommissioning fund before receipt of an initial or revised ruling amount applicable to a taxable year.

§ 1.468A–4 Treatment of nuclear decommissioning fund.

(a) In general.
(b) Modified gross income.
(c) Special rules.
(1) Period for computation of modified gross income.
(2) Gain or loss upon distribution of property by a fund.
(3) Denial of credits against tax.
(4) Other corporate taxes inapplicable.
(d) Treatment as corporation for purposes of subtitle F.

§ 1.468A–5 Nuclear decommissioning fund—miscellaneous provisions.

(a) Qualification requirements.
(1) In general.
(2) Limitation on contributions.
(3) Limitation on use of fund.
(i) In general.
(ii) Terms defined.
(b) Prohibitions against self-dealing.
(1) In general.
(2) Self-dealing defined.
(3) Disqualified person defined.
(c) Disqualification of nuclear decommissioning fund.
(1) In general.
(2) Exception to disqualification.
(i) In general.
(ii) Excess contribution defined.
(iii) Taxation of income attributable to an excess contribution.
(3) Effect of disqualification.
(d) Termination of nuclear decommissioning fund upon substantial completion of decommissioning.
(1) In general.
(2) Substantial completion of decommissioning defined.

§ 1.468A–6 Disposition of an interest in a nuclear power plant. [Reserved]

§ 1.468A–7 Manner of and time for making election.

(a) In general.
(b) Required information.

§ 1.468A–8 Effective date and transitional rules.

(a) Effective date.
(1) In general.
(2) Cut-off method applicable to electing taxpayers.
(b) Transitional rules.
(1) Time for filing request for schedule of ruling amounts.
(2) Manner of and time for making contributions to a nuclear decommissioning fund.
(3) Manner of and time for making election.
(4) Determination of cost of service limitation.
(5) Assumptions and determinations to be used in determining ruling amounts.
(6) Exception to level funding limitation.
(7) Determination of qualifying percentage.
(8) Limitation on payments to a nuclear decommissioning fund.
(9) Denial of interest on overpayment.
(10) Determination of addition to tax for failure to pay estimated tax.

§ 1.468A–1 Nuclear decommissioning costs; general rules.

(a) *Introduction.* Section 468A provides an elective method for taking into account nuclear decommissioning costs for Federal income tax purposes. In general, an eligible taxpayer that elects the application of section 468A pursuant to the rules contained in § 1.468A–7 is allowed a deduction (as determined under § 1.468A–2) for the taxable year in which the taxpayer makes a cash payment to a nuclear decommissioning fund. Taxpayers using an accrual method of accounting that do not elect the application of section 468A are not allowed a deduction for nuclear decommissioning costs prior to the taxable year in which economic performance occurs with respect to such costs (see section 461(h)).

(b) *Definitions.* The following terms are defined for purposes of §§ 1.468A–1 through 1.468A–5, 1.468A–7 and 1.468A–8:

(1) The term "eligible taxpayer" means any taxpayer that possesses a qualifying interest in a nuclear power plant (including a nuclear power plant that is under construction).

(2) The term "qualifying interest" means—

(i) A direct ownership interest; and

(ii) A leasehold interest in any portion of a nuclear power plant if—

(A) The holder of the leasehold interest is subject to the jurisdiction of a public utility commission with respect to such portion of the nuclear power plant;

(B) The holder of the leasehold interest is primarily liable under Federal or State law for decommissioning such portion of the nuclear power plant; and

(C) No other person establishes a nuclear decommissioning fund with respect to such portion of the nuclear power plant.

A direct ownership interest includes an interest held as a tenant in common or joint tenant, but does not include stock in a corporation that owns a nuclear power plant or an interest in a partnership that owns a nuclear power plant. Thus, in the case of a partnership that owns a nuclear power plant, the election under section 468A must be made by the partnership and not by the partners. In the case of an unincorporated organization described in § 1.761–2(a)(3) that elects under section 761(a) to be excluded from the application of subchapter K, each taxpayer that is a co-owner of the nuclear power plant is eligible to make a separate election under section 468A.

(3) The term "nuclear decommissioning fund" means a fund that satisfies the requirements of § 1.468A.–5.

(4) The term "nuclear power plant" means any nuclear power reactor that is used predominantly in the trade or business of the furnishing or sale of electric energy, if the rates for such furnishing or sale, as the case may be, have been established or approved by a public utility commission. Each unit (*i.e.*, nuclear reactor) located on a multi-unit site is a separate nuclear power plant.

(5) The term "nuclear decommissioning costs" or "decommissioning costs" means all otherwise deductible expenses to be incurred in connection with the entombment, decontamination, dismantlement, removal and disposal of the structures, systems and components of a nuclear power plant that has permanently ceased the production of electric energy. Such term includes all otherwise deductible expenses to be incurred in connection with the preparation for decommissioning, such as engineering and other planning expenses, and all otherwise deductible expenses to be incurred with respect to the plant after the actual decommissioning occurs, such as physical security and radiation monitoring expenses. Such term does not include otherwise deductible expenses to be incurred in connection with the disposal of spent nuclear fuel under the Nuclear Waste Policy Act of 1982 (Pub. L. 97–425). An expense is otherwise deductible for purposes of this paragraph (b)(5) if it would be deductible under chapter 1 of the Internal Revenue Code without regard to section 280B.

(6) The term "public utility commission" means any State or political subdivision thereof, any agency, instrumentality or judicial body of the United States, or any judicial body, commission or other similar body of the District of Columbia or of any State or any political subdivision thereof that establishes or approves rates for the furnishing or sale of electric energy.

(7) The term "ratemaking proceeding" means any proceeding before a public utility commission in which rates for the furnishing or sale of electric energy are established or approved. Such term includes a generic proceeding that applies to two or more taxpayers that are subject to the jurisdiction of a single public utility commission.

(c) *Special rules applicable to certain experimental nuclear facilities.* (1) The owner of a qualifying interest in an experimental nuclear facility possesses a qualifying interest in a nuclear power plant for purposes of paragraph (b) of this section if—

(i) Such person is engaged in the trade or business of the furnishing or sale of electric energy;

(ii) The rates charged for electric energy furnished or sold by such person are established or approved by a public utility commission; and

(iii) The cost of decommissioning the facility is included in the cost of service of such person.

(2) An owner of stock in a corporation that owns an experimental nuclear facility possesses a qualifying interest in

a nuclear power plant for purposes of paragraph (b)(1) of this section if—

(i) Such stockholder satisfies the conditions of paragraph (c)(1) (i) through (iii) of this section; and

(ii) The corporation that directly owns the facility is not engaged in the trade or business of the furnishing or sale of electric energy.

(3) For purposes of this paragraph (c), an experimental nuclear facility is a nuclear power reactor that is used predominantly for the purpose of conducting experimentation and research.

§ 1.468A–2 Treatment of electing taxpayer.

(a) *In general.* An eligible taxpayer that elects the application of section 468A pursuant to the rules contained in § 1.468A–7 (an "electing taxpayer") is allowed a deduction for the taxable year in which the taxpayer makes a cash payment (or is deemed to make a cash payment as provided in paragraph (c) of this section) to a nuclear decommissioning fund. The amount of the deduction for any taxable year equals the total amount of cash payments made (or deemed made) by the electing taxpayer to a nuclear decommissioning fund (or nuclear decommissioning funds) during such taxable year. A payment may not be made (or deemed made) to a nuclear decommissioning fund before the first taxable year in which all of the following conditions are satisfied:

(1) The construction of the nuclear power plant to which the nuclear decommissioning fund relates has commenced.

(2) Nuclear decommissioning costs of the nuclear power plant to which the nuclear decommissioning fund relates are included in the taxpayer's cost of service for ratemaking purposes (see paragraph (b) of this section).

(3) A ruling amount is applicable to the nuclear decommissioning fund (see § 1.468A–3).

(b) *Limitation on payments to a nuclear decommissioning fund*—(1) *In general.* For purposes of paragraph (a) of this section, the maximum amount of cash payments made (or deemed made) to a nuclear decommissioning fund during any taxable year shall not exceed the lesser of:

(i) The cost of service amount applicable to the nuclear decommissioning fund for such taxable year (as defined in paragraph (b)(2) of this section); or

(ii) The ruling amount applicable to the nuclear decommissioning fund for such taxable year (as determined under § 1.468A–3).

If the amount of cash payments made (or deemed made) to a nuclear decommissioning fund during any taxable year exceeds the limitation of this paragraph (b)(1), the excess is not deductible by the electing taxpayer. In addition, see paragraph (c) of § 1.468A–5 for rules which provide that the Internal Revenue Service may disqualify a nuclear decommissioning fund if the amount of cash payments made (or deemed made) to a nuclear decommissioning fund during any taxable year exceeds the limitation of this paragraph (b)(1).

(2) *Cost of service amount.* (i) For purposes of section 468A and the regulations thereunder, the "cost of service amount applicable to a nuclear decommissioning fund for a taxable year" is the amount of decommissioning costs included in the electing taxpayer's cost of service for ratemaking purposes for such taxable year. Decommissioning costs are included in cost of service for a taxable year only to the extent such costs are directly or indirectly charged to customers of the taxpayer by reason of electric energy consumed during such taxable year or are otherwise required to be included in the taxpayer's income under section 88 and the regulations thereunder.

(ii) Except as otherwise provided in paragraph (b)(4)(i) of § 1.468A–8 (relating to a special transitional rule), decommissioning costs shall generally not be considered included in cost of service for purposes of this section unless—

(A) The order or opinion of the applicable public utility commission identifies the amount of decommissioning costs that is included in cost of service for ratemaking purposes; or

(B) The written records of the ratemaking proceeding clearly and unambiguously indicate the amount of decommissioning costs that is included in cost of service for ratemaking purposes.

(iii) Except as otherwise provided in paragraph (f)(2) of this section (relating to a special rule that applies to certain retroactive adjustments to interim rate orders), orders or opinions of a public utility commission that are issued after the close of any taxable year shall not be considered in determining the amount of decommissioning costs included in cost of service for such taxable year.

(iv) If a taxpayer possesses a qualifying interest in two or more nuclear power plants that are the subject of a single ratemaking proceeding, the amount of decommissioning costs included in cost of service pursuant to such ratemaking proceeding must be allocated among such nuclear power plants. Such allocation must be reasonable and consistent, and must take into account the assumptions and determinations, if any, used by the public utility commission in establishing or approving the amount of decommissioning costs included in cost of service.

(c) *Deemed payment rules.* (1) The amount of any cash payment made by an electing taxpayer to a nuclear decommissioning fund on or before the 15th day of the third calendar month after the close of any taxable year (the "deemed payment deadline date") shall be deemed made during such taxable year if the electing taxpayer irrevocably designates the amount as relating to such taxable year on its timely filed Federal income tax return for such taxable year (see paragraph (b)(4)(iv) of § 1.468A–7 for rules relating to such designation).

(2) The amount of any cash payment made by a customer of an electing taxpayer to a nuclear decommissioning fund of such electing taxpayer shall be deemed made by the electing taxpayer if the amount is included in the gross income of the electing taxpayer in the manner prescribed by section 88 and § 1.88–1.

(d) *Treatment of distributions*—(1) *In general.* Except as otherwise provided in paragraph (d)(2) of this section, the amount of any actual or deemed distribution from a nuclear decommissioning fund shall be included in the gross income of the electing taxpayer for the taxable year in which the distribution occurs. The amount of any distribution of property equals the fair market value of the property on the date of the distribution. A distribution from a nuclear decommissioning fund shall include an expenditure from the fund or the use of the fund's assets—

(i) To satisfy, in whole or in part, the liability of the electing taxpayer for decommissioning costs of the nuclear power plant to which the fund relates; and

(ii) To pay administrative costs and other incidental expenses of the fund.

See paragraphs (c) and (d) of § 1.468A–5 for rules relating to the deemed distribution of the assets of a nuclear decommissioning fund in the case of a disqualification or termination of the fund.

(2) *Exceptions to inclusion in gross income*—(i) *Payment of administrative costs and incidental expenses.* The amount of any payment by a nuclear decommissioning fund for administrative costs or other incidental

expenses of such fund (as defined in paragraph (a)(3)(ii)(A) of § 1.468A–5) shall not be included in the gross income of the electing taxpayer unless such amount is paid to the electing taxpayer (in which case the amount of the payment is included in the gross income of the electing taxpayer under section 61).

(ii) *Withdrawals of excess contributions.* The amount of a withdrawal of an excess contribution (as defined in paragraph (c)(2)(ii) of § 1.468A–5) by an electing taxpayer pursuant to the rules of paragraph (c)(2) of § 1.468A–5 shall not be included in the gross income of the electing taxpayer. See paragraph (b)(1) of this section, which provides that the payment of such amount to the nuclear decommissioning fund is not deductible by the electing taxpayer.

(iii) *Actual distributions of amounts included in gross income as deemed distributions.* If the amount of a deemed distribution is included in the gross income of the electing taxpayer for the taxable year in which the deemed distribution occurs, no further amount is required to be included in gross income when the amount of the deemed distribution is actually distributed by the nuclear decommissioning fund. The amount of a deemed distribution is actually distributed by a nuclear decommissioning fund as the first actual distributions are made by the nuclear decommissioning fund on or after the date of the deemed distribution.

(e) *Deduction when economic performance occurs.* An electing taxpayer using an accrual method of accounting is allowed a deduction for nuclear decommissioning costs no earlier than the taxable year in which economic performance occurs with respect to such costs (see section 461 (h)(2)). The amount of nuclear decommissioning costs that is deductible under this paragraph (e) is determined without regard to section 280B (see paragraph (b)(5) of § 1.468A–1). A deduction is allowed under this paragraph (e) whether or not a deduction was allowed with respect to such costs under section 468A(a) and paragraph (a) of this section for an earlier taxable year (see paragraph (a)(2) of § 1.468A–8, however, for the effective date applicable to this paragraph (e)).

(f) *Effect of interim rate orders and retroactive adjustments to such orders—* (1) *In general.* (i) The amount of decommissioning costs included in cost of service for any taxable year that ends before the date of a retroactive adjustment to an interim rate order or interim determination of a public utility commission shall include amounts authorized pursuant to such interim rate order or interim determination unless a taxpayer elects the application of paragraph (f)(2) of this section for such taxable year. For purposes of this paragraph (f), a retroactive adjustment occurs on the effective date of the revised rate schedule that implements the retroactive adjustment.

(ii) If a retroactive adjustment to an interim rate order or interim determination reduces the amount of decommissioning costs included in cost of service for one or more taxable years ending before the date of the adjustment, the amount of such reduction must be subtracted from the amount of decommissioning costs included in cost of service (as determined under paragraph (b)(2) of this section) for one or more taxable years ending on or after the date of the adjustment. For this purpose, the amount of such reduction must be taken into account in the following manner:

(A) If the retroactive adjustment reduces the amount of decommissioning costs included in cost of service for one taxable year ending before the date of the adjustment, the total amount of the reduction must be taken into account for the taxable year that includes the date of the adjustment.

(B) If the retroactive adjustment reduces the amount of decommissioning costs included in cost of service for two taxable years ending before the date of the adjustment, at least one-half of the total amount of the reduction must be taken into account for the first taxable year ending on or after the date of the adjustment and the total amount of the reduction must be taken into account over the first two taxable years ending on or after the date of the adjustment.

(C) If the retroactive adjustment reduces the amount of decommissioning costs included in cost of service for three or more taxable years ending before the date of the adjustment, at least one-third of the total amount of the reduction must be taken into account for the first taxable year ending on or after the date of the adjustment, at least two-thirds of the total amount of the reduction must be taken into account over the first two taxable years ending on or after the date of the adjustment, and the total amount of the reduction must be taken into account over the first three taxable years ending on or after the date of the adjustment.

(2) *Special rule permitting withdrawal of excess contribution that results from retroactive adjustment to interim rate order.* (i) If a retroactive adjustment that reduces the amount of decommissioning costs included in cost of service for a taxable year occurs on or before the date prescribed by law (including extensions) for filing the return of the nuclear decommissioning fund for such taxable year, a taxpayer may elect the application of this paragraph (f)(2) for such taxable year by—

(A) Including in the amount of decommissioning costs included in cost of service for such taxable year only the amount of decommissioning costs authorized for such taxable year under the retroactive adjustment; and

(B) Withdrawing any excess contribution that results from such treatment in accordance with the rules of paragraph (c)(2) of § 1.468A–5.

(ii) If a taxpayer elects the application of this paragraph (f)(2) for any taxable year, the retroactive adjustment shall not be treated for purposes of paragraph (f)(1)(ii) of this section as a reduction in the amount of decommissioning costs included in cost of service for such taxable year.

(3) *Revised schedule of ruling amounts.* If the rules provided in this paragraph (f) result in a cost of service amount applicable to a nuclear decommissioning fund for any taxable year that is less than the cost of service amount applicable to the nuclear decommissioning fund for the immediately preceding taxable year, the taxpayer must request a revised schedule of ruling amounts on or before the deemed payment deadline date for the taxable year in which the retroactive adjustment occurs. The first taxable year to which the revised schedule of ruling amount applies shall be the taxable year in which the retroactive adjustment occurs.

(4) *Example.* The following example illustrates the application of the principles of this paragraph (f):

Example. (i) X corporation is a calendar year, accrual method taxpayer engaged in the sale of electric energy generated by a nuclear power plant owned by X. During 1989, X is authorized pursuant to an interim rate order issued by the public utility commission of State A to collect nuclear decommissioning costs of $500,000 per year beginning on January 1, 1990. On May 1, 1992, the public utility commission of State A issues a final rate order that is effective on July 1, 1992. The final rate order authorizes X to collect decommissioning costs of $400,000 per year and requires X to refund to the ratepayers of State A excess decommissioning costs of $250,000 collected between January 1, 1990, and July 1, 1992.

(ii) If X elects the application of paragraph (f)(2) of this section for the 1991 taxable year, the amount of decommissioning costs included in cost of service for such taxable year is $400,000. If X made a contribution of $500,000 to a nuclear decommissioning fund for the 1991 taxable year, X must withdraw

$100,000 from the nuclear decommissioning fund on or before the date prescribed by law (including extensions) for filing the return of the nuclear decommissioning fund for the 1991 taxable year (see paragraph (c)(2) of § 1.468A–5).

(iii) In addition, under paragraph (f)(1)(i) of this section, the amount of decommissioning costs included in cost of service for the 1990 taxable year is $500,000, and, under paragraph (f)(1)(ii) of this section, the amount of decommissioning costs included in cost of service for the 1992 taxable year is $300,000. Because the cost of service amount for the 1991 taxable year ($400,000) is less than the cost of service amount for the 1990 taxable year ($500,000), paragraph (f)(3) of this section applies and X must file a request for a revised schedule of ruling amounts for the period beginning with the 1992 taxable year on or before March 15, 1993.

(iv) Alternatively, if X does not elect the application of paragraph (f)(2) section, the amount of decommissioning costs included in cost of service for the 1990 and 1991 taxable years is $500,000, and, under paragraph (f)(1)(ii) of this section, the amount of decommissioning costs included in cost of service for the 1992 taxable year may not exceed $300,000. Because the cost of service amount for the 1992 taxable year is less than the cost of service amount for the 1991 taxable year, paragraph (f)(3) of this section applies and X must file a request for a revised schedule of ruling amounts for the period beginning with the 1992 taxable year on or before March 15, 1993.

§ 1.468A–3 Ruling amount.

(a) *In general.* (1) Except as otherwise provided in paragraph (j) of this section, an electing taxpayer is allowed a deduction under section 468A(a) for the taxable year in which the taxpayer makes a cash payment (or is deemed to make a cash payment) to a nuclear decommissioning fund only if the taxpayer has received a schedule of ruling amounts for the nuclear decommissioning fund that includes a ruling amount for such taxable year. Except as provided in paragraph (a) (4) or (5) of this section, a schedule of ruling amounts for a nuclear decommissioning fund ("schedule of ruling amounts") is a ruling (within the meaning of paragraph (a)(2) of § 601.201) specifying the annual payments ("ruling amounts") that, over the taxable years remaining in the "funding period" as of the date the schedule first applies, will result in a projected balance of the nuclear decommissioning fund as of the last day of the funding period equal to (and in no event greater than) the "amount of decommissioning costs allocable to the fund." The projected balance of a nuclear decommissioning fund as of the last day of the funding period shall be calculated by taking into account the fair market value of the assets of the fund as of the first day of the first taxable year to which the schedule of ruling amounts applies and the estimated rate of return to be earned by the assets of the fund after payment of the estimated administrative costs and incidental expenses to be incurred by the fund (as defined in paragraph (a)(3)(ii)(A) of § 1.468A–5), including all Federal, State and local income taxes to be incurred by the fund (the "after-tax rate of return"). See paragraph (c) of this section for a definition of funding period and paragraph (d) of this section for guidance with respect to the amount of decommissioning costs allocable to a fund.

(2) To the extent consistent with the principles and provisions of this section, each schedule of ruling amounts shall be based on the reasonable assumptions and determinations used by the applicable public utility commission(s) in establishing or approving the amount of decommissioning costs to be included in cost of service for ratemaking purposes, taking into account amounts that are otherwise required to be included in the taxpayer's income under section 88 and the regulations thereunder. Thus, for example, each schedule of ruling amounts shall be based on the public utility commission's reasonable assumptions concerning—

(i) The after-tax rate of return to be earned by the amounts collected for decommissioning;

(ii) The total estimated cost of decommissioning the nuclear power plant (see paragraph (d)(2) of this section); and

(iii) The frequency of contributions to a nuclear decommissioning fund for a taxable year (*e.g.*, monthly, quarterly, semi-annual or annual contributions).

(3) The Internal Revenue Service shall provide a schedule of ruling amounts that is identical to the schedule of ruling amounts proposed by the taxpayer in connection with the taxpayer's request for a schedule of ruling amounts (see paragraph (h)(2)(viii) of this section), but no schedule of ruling amounts shall be provided unless the taxpayer's proposed schedule of ruling amounts is consistent with the principles and provisions of this section. If a proposed schedule of ruling amounts is not consistent with the principles and provisions of this section, the taxpayer may propose an amended schedule of ruling amounts that is consistent with such principles and provisions.

(4) If, in establishing or approving the amount of decommissioning costs to be included in cost of service for ratemaking purposes, the applicable public utility commission uses an estimated cost of decommissioning that is based on price levels in effect at the time of the ratemaking proceeding (*i.e.*, the public utility commission does not estimate the cost of decommissioning in future dollars), the Internal Revenue Service may, in its discretion, provide a formula or method for determining a schedule of ruling amounts (rather than a schedule specifying a dollar amount for each taxable year) that is consistent with the principles and provisions of this section. See paragraph (i)(1)(ii) of this section for a special rule relating to the mandatory review of ruling amounts that are determined pursuant to a formula or method.

(5) The Internal Revenue Service may, in its discretion, provide a schedule of ruling amounts that is determined on a basis other than the rules of paragraphs (a) through (g) of this section if—

(i) In connection with its request for a schedule of ruling amounts, the taxpayer explains the need for special treatment and sets forth an alternative basis for determining the schedule of ruling amounts; and

(ii) The Internal Revenue Service determines that special treatment is consistent with the purpose of section 468A.

(b) *Level funding limitation.* (1) Except as otherwise provided in paragraph (b)(4) of this section and paragraph (b)(6) of § 1.468A–8 (relating to a special transitional rule), the ruling amount specified in a schedule of ruling amounts for any taxable year in the level funding limitation period shall not be less than the ruling amount specified in such schedule for any earlier taxable year.

(2) For purposes of this section, the level funding limitation period for a nuclear decommissioning fund is the period that—

(i) Begins on the first day of the first taxable year for which a deductible payment is made (or deemed made) to such nuclear decommissioning fund (see paragraph (a) of § 1.468A–2 for rules relating to the first taxable year for which a payment may be made (or deemed made) to a nuclear decommissioning fund); and

(ii) Ends on the last day of the taxable year that includes the estimated date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes (see paragraphs (e) (2) and (4) of this section).

(3) The ruling amount specified in a schedule of ruling amounts for a taxable year after the end of the level funding limitation period may be less than the ruling amount specified in such schedule for an earlier taxable year.

(4) The ruling amount specified in a schedule of ruling amounts for the last taxable year in the level funding limitation period may be less than the ruling amount specified in such schedule for any earlier taxable year if the applicable public utility commission assumes for cost of service purposes that decommissioning costs will be included in cost of service for only a portion of the last taxable year in the level funding limitation period. The ruling amount for the last taxable year in the level funding limitation period, however, may not be less than the amount that bears the same relationship to the ruling amount for the preceding taxable year as the period for which decommissioning costs will be included in cost of service for such last taxable year bears to one year.

(c) *Funding period*—(1) *General rule.* For purposes of this section, the funding period for a nuclear decommissioning fund is the period that—

(i) Begins on the first day of the first taxable year for which a deductible payment is made (or deemed made) to such nuclear decommissioning fund (see paragraph (a)(1) § 1.468A–2 for rules relating to the first taxable year for which a payment may be made (or deemed made) to a nuclear decommissioning fund); and

(ii) Ends on the later of—

(A) The last day of the taxable year that includes the estimated date on which decommissioning costs of the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's cost of service for ratemaking purposes (see paragraph (e)(1) of this section); or

(B) The last day of the taxable year that includes the estimated date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes (see paragraph (e)(2) of this section).

(2) *Examples.* The following examples illustrate the application of the principles of paragraphs (a), (b) and (c) of this section:

Example (1). (i) X corporation is a calendar year, accrual method taxpayer engaged in the sale of electric energy generated by power plants owned by X. On March 15, 1995, X commences the construction of a nuclear power plant in State A. On May 15, 1995, the public utility commission of State A issues a final rate order for the four-year period beginning on January 1, 1995, that authorizes X to collect decommissioning costs from ratepayers residing in State A. For the 1995 taxable year, X is authorized to collect decommissioning costs of $500,000, and, for each taxable year during the remainder of the period to which the rate order applies, X is authorized to collect decommissioning costs in an amount equal to 105 percent of the amount authorized to be collected for the preceding taxable year.

(ii) In determining the amount of decommissioning costs to be collected from ratepayers residing in State A, the public utility commission assumes that (A) decommissioning costs will be included in cost of service for each taxable year in the period that begins with 1995 and ends with 2025 and (B) decommissioning costs collected pursuant to subsequent rate orders will increase in the same manner as amounts collected pursuant to the rate order issued on May 15, 1995. In addition, in determining the rate of return to be earned by X with respect to the nuclear power plant, the public utility commission assumes that the nuclear power plant will be included in rate base for each year in the period that begins with 2000 and ends with 2025.

(iii) X requests a schedule of ruling amounts in accordance with the rules of paragraph (h) of this section for the period beginning with the 1995 taxable year. In determining the level funding limitation period and the funding period, the Internal Revenue Service shall assume that a deductible payment will be made to a nuclear decommissioning fund for the 1995 taxable year. Thus, under paragraph (b) of this section, the level funding limitation period begins on January 1, 1995, and ends on December 31, 2025. Under paragraph (c)(1) of this section, the funding period begins on January 1, 1995, and ends on December 31, 2025.

(iv) In its request for a schedule or ruling amounts, X proposes a ruling amount for each taxable year in the funding period that corresponds to the projected cost of service amount for such taxable year. If (A) the assumptions and determinations used by the public utility commission in establishing the amount of decommissioning costs to be included in cost of service are reasonable and (B) the amounts collected pursuant to the proposed schedule, combined with the after-tax earnings on such amounts, will result in a projected balance of the nuclear decommissioning fund as of December 31, 2025, equal to the amount of decommissioning costs allocable to the fund, then, under paragraph (a)(3) of this section, each ruling amount in the initial schedule of ruling amounts shall equal the ruling amount proposed by X in connection with its request for a schedule of ruling amounts. Thus, the ruling amount for the 1995 taxable year would be $500,000, and the ruling amount for each subsequent taxable year would be 105 percent of the ruling amount for the preceding taxable year.

Example (2). (i) Assume the same facts as in Example (1), except that on May 15, 1995, the public utility commission of State A issues a final rate order for the four-year period beginning on January 1, 1995, that authorizes X to collect decommissioning costs of $600,000 per year from ratepayers residing in State A. In determining the amount of decommissioning costs to be collected from ratepayers residing in State A, the public utility commission assumes that decommissioning costs of $600,000 will be collected for each taxable year in the period that begins with 1995 and ends with 2004 and that decommissioning costs of $200,000 will be collected for each taxable year in the period that begins with 2005 and ends with 2025.

(ii) X requests a schedule of ruling amounts in accordance with the rules of paragraph (h) of this section for the period beginning with the 1995 taxable year. In determining the level funding limitation period and the funding period, the Internal Revenue Service shall assume that a deductible payment will be made to a nuclear decommissioning fund for the 1995 taxable year. Thus, under paragraph (b) of this section, the level funding limitation period begins on January 1, 1995, and ends on December 31, 2025. Under paragraph (c)(1) of this section, the funding period begins on January 1, 1995, and ends on December 31, 2025.

(iii) In its request for a schedule of ruling amounts, X proposes a ruling amount for each taxable year in the funding period that corresponds to the projected cost of service amount for such taxable year. A schedule of ruling amounts based on the projected cost of service amount would be inconsistent with the level funding limitation of paragraph (b) of this section because the projected cost of service amount for 2005 is less than the projected cost of service amount for 2004. Consequently, under paragraph (a)(3) of this section, no schedule of ruling amounts shall be provided to X unless X proposes an amended schedule of ruling amounts that is consistent with the level funding limitation and the other principles and provisions of this section.

(iv) Assume that X proposes an amended schedule of ruling amounts that provides for ruling amounts of $400,000 for each taxable year in the funding period. If (A) the schedule of ruling amounts proposed by X is based on the reasonable assumptions and determinations used by the public utility commission in establishing the amount of decommissioning costs to be included in cost of service and (B) the amounts collected pursuant to the proposed schedule, combined with the after-tax earnings on such amounts, will result in a projected balance of the nuclear decommissioning fund as of December 31, 2025, equal to the amount of decommissioning costs allocable to the fund, then, under paragraph (a)(3) of this section, each ruling amount in the initial schedule of ruling amounts shall equal the ruling amount proposed by X in connection with its request for a schedule of ruling amounts. Thus, the ruling amount for the 1995 taxable year and for each subsequent taxable year through 2025 would be $400,000.

(v) Under section 468A(b) and paragraph (b)(1) of § 1.468A–2, the maximum amount of cash payments that X can make to a nuclear decommissioning fund for any taxable year shall not exceed the lesser of (A) the cost of service amount for such taxable year or (B) the ruling amount for such taxable year. If the projected cost of service amount that was assumed in determining rates under the rate order that was issued on May 15, 1995, is the actual cost of service amount for each

taxable year in the funding period and the ruling amounts provided in the initial schedule of ruling amounts are not changed by a subsequent schedule of ruling amounts, then X would be allowed to make a deductible contribution of $400,000 to a nuclear decommissioning fund for each taxable year in the period that begins with 1995 and ends with 2004 and to make a deductible contribution of $200,000 to such nuclear decommissioning fund for each taxable year in the period that begins with 2005 and ends with 2025.

Example (3). (i) Y corporation is a calendar year, accrual method taxpayer engaged in the sale of electric energy generated by power plants owned by Y. On June 1, 1990, a nuclear power plant owned by Y began commercial operations in State B. In the first ratemaking proceeding in which the nuclear power plant was included in rate base, the public utility commission of State B assumed that the nuclear power plant would be included in rate base for each year in the period that began with 1990 and ended with 2020. In addition, for each taxable year in the period that began with 1990 and ended with 2017, Y made a deductible contribution of $750,000 to a nuclear decommissioning fund established by Y. The $750,000 contribution equalled the cost of service amount and the ruling amount for each taxable year in the 28-year period.

(ii) On August 30, 2017, the public utility commission of State B issues a final rate order for the six-year period beginning on January 1, 2018, that authorizes Y to collect decommissioning costs of: (A) $500,000 for 2018, 2019 and 2020; (B) $1,500,000 for 2021; (C) $1,000,000 for 2022; and (D) $750,000 for 2023. In determining the amount of decommissioning costs to be collected from ratepayers residing in State B, the public utility commission assumes that decommissioning costs will no longer be included in cost of service after 2023. In addition, in determining the rate of return to be earned by Y with respect to the nuclear power plant, the public utility commission assumes that the nuclear power plant will no longer be included in rate base after 2020.

(iii) Under paragraph (i)(1)(iii) of this section, Y is required to request a revised schedule of ruling amounts on or before March 15, 2019. Assume that Y makes a timely request for a revised schedule of ruling amounts in accordance with the rules of paragraph (h) of this section. In its request, Y proposes a ruling amount for each taxable year in the period that begins with 2018 and ends with 2023 that corresponds to the amount of decommissioning costs to be included in cost of service under the rate order of August 30, 2017.

(iv) Under paragraph (b) of this section, the level funding limitation period begins on January 1, 1990, and ends on December 31, 2020. Under paragraph (c)(1) of this section, the funding period begins on January 1, 1990, and ends on December 31, 2023.

(v) If (A) the assumptions and determinations used by the public utility commission in establishing the amount of decommissioning costs to be included in cost of service are reasonable and (B) the projected balance of the nuclear decommissioning fund as of December 31, 2023 (taking into account the fair market value of the assets of the fund as of January 1, 2018, and the estimated after-tax rate of return to be earned by the assets of the fund) will equal the amount of decommissioning costs allocable to the fund, then, under paragraph (a)(3) of this section, each ruling amount in the revised schedule of ruling amounts shall equal the ruling amount proposed by Y in connection with its request for a schedule of ruling amounts. Thus, the ruling amount for 2018, 2019 and 2020 would be $500,000, the ruling amount for 2021 would be $1,500,000, the ruling amount for 2022 would be $1,000,000 and the ruling amount for 2023 would be $750,000.

(vi) Although the ruling amount specified in the revised schedule of ruling amounts for 2018, 2019 and 2020 is less than a ruling amount specified in a prior schedule of ruling amounts for years prior to 2018, the revised schedule of ruling amounts is consistent with the level funding limitation. Under paragraph (i)(3) of this section, a ruling amount specified in a revised schedule of ruling amounts for any taxable year in level funding limitation period may be less than one or more ruling amounts specified in a prior schedule of ruling amounts for a prior taxable year. In addition, although the ruling amount specified in the revised schedule of ruling amounts for 2022 and 2023 is less than a ruling amount specified in such schedule for a prior taxable year, the revised schedule of ruling amounts is consistent with the level funding limitation because the level funding limitation period ends on December 31, 2020.

(d) *Decommissioning costs allocable to a fund.* The amount of decommissioning costs allocable to a nuclear decommissioning fund is determined for purposes of this section by applying the following rules and definitions:

(1) *General rule.* The amount of decommissioning costs allocable to a nuclear decommissioning fund is the taxpayer's share of the total estimated cost of decommissioning the nuclear power plant to which the fund relates, multiplied by the qualifying percentage.

(2) *Total estimated cost of decommissioning.* (i) Except as otherwise provided in paragraph (d)(2)(ii) of this section, the total estimated cost of decommissioning a nuclear power plant is the reasonably estimated cost of decommissioning used by the applicable public utility commission in establishing or approving the amount of decommissioning costs to be included in cost of service for ratemaking purposes. If, in establishing or approving the amount of decommissioning costs to be included in cost of service, the public utility commission uses an estimated cost of decommissioning that is equal to a generic estimate of the cost of decommissioning as determined by the Nuclear Regulatory Commission (or an estimated cost that is based on the generic estimate adjusted for inflation), the Internal Revenue Service may, at its discretion, accept such amount as a reasonable estimate of the cost of decommissioning. In addition, if the estimated costs used by the applicable public utility commission are expected to be paid in any taxable year other than the taxable year that includes the last day of the funding period or the immediately succeeding taxable year, such costs must be adjusted (increased or decreased, as the case may be) by discounting or compounding such costs at the after-tax rate of return from the date such costs are expected to be paid to the last day of the funding period.

(ii) If, in establishing or approving the amount of decommissioning costs to be included in cost of service, the applicable public utility commission assumes a projected balance of amounts set aside for decommissioning (whether or not such amounts are provided by a nuclear decommissioning fund) that is less than the total estimated cost of decommissioning assumed by the public utility commission, the total estimated cost of decommissioning for purposes of determining the schedule of ruling amounts shall equal the projected balance of amounts set aside for decommissioning that was assumed by the public utility commission.

(3) *Taxpayer's share.* The taxpayer's share of the total estimated cost of decommissioning a nuclear power plant equals the total estimated cost of decommissioning such nuclear power plant multiplied by the percentage of such nuclear power plant that the qualifying interest of the taxpayer represents (see paragraph (b)(2) of § 1.468A–1 for circumstances in which a taxpayer possesses a qualifying interest in a nuclear power plant).

(4) *Qualifying percentage.* (i) Except as otherwise provided in paragraph (b)(7)(iii) of § 1.468A–8 (relating to a special transitional rule), the qualifying percentage for any nuclear decommissioning fund is equal to the fraction, the numerator of which is the number of taxable years in the estimated period for which the nuclear decommissioning fund is to be in effect and the denominator of which is the number of taxable years in the estimated useful life of the applicable nuclear power plant.

(ii) Except as otherwise provided in paragraph (b)(7) (i) of (ii) of § 1.468A–8 (relating to special transitional rules), the estimated period for which a nuclear decommissioning fund is to be in effect—

(A) Begins on the later of—

(1) The first day of the first taxable year for which a deductible payment is made (or deemed made) to such nuclear decommissioning fund; or

(2) The first day of the taxable year that includes the date the nuclear power plant to which such nuclear decommissioning fund relates begins commercial operations; and

(B) Ends on the last day of the taxable year that includes the estimated date on which the nuclear power plant to which such nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes (see paragraph (e) (3) and (4) of this section).

(iii) Except as otherwise provided in paragraph (b)(7)(ii) of § 1.468A–8 (relating to a special transitional rule), the estimated useful life of a nuclear power plant.

(A) Begins on the first day of the taxable year that includes the date that the nuclear power plant begins commercial operations; and

(B) Ends on the last day of the taxable year that includes the estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes (see paragraph (e) (3) and (4) of this section).

(e) *Determination of estimated dates.* (1) For purposes of paragraph (c)(1)(ii)(A) of this section (relating to the funding period), the estimated date on which decommissioning costs of the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's cost of service for ratemaking purposes is determined under the ratemaking assumptions that were used to determine the last rates (whether interim or final) that were established or approved by the applicable public utility commission prior to the filing of the current request for a schedule of ruling amounts.

(2) For purposes of paragraphs (b)(2)(ii) and (c)(1)(ii)(B) of this section (relating to the level funding limitation period and the funding period), the estimated date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes is determined under the ratemaking assumptions that were used to determine the last rates (whether interim or final) that were established or approved by the applicable public utility commission prior to the filing of the current request for a schedule of ruling amounts.

(3) For purposes of paragraph (d)(4)(ii)(B) and (iii)(B) of this section (relating to the qualifying percentage), the estimated date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base for ratemaking purposes is determined under the ratemaking assumptions used by the applicable public utility commission in establishing or approving rates during the first ratemaking proceeding in which the nuclear power plant was included in the taxpayer's rate base.

(4) For purposes of this section, in the case of a taxpayer whose interest in the nuclear power plant is described in paragraph (b)(2)(ii) of § 1.468A–1, the date corresponding to "the estimated date on which the nuclear power plant to which the nuclear decommissioning fund relates will no longer be included in the taxpayer's rate base" will be determined upon the basis of all the facts and circumstances in a manner consistent with the provisions of this section and section 468A of the Code.

(f) *Special rules in the case of rates established or approved by two or more public utility commissions.* If two or more public utility commissions establish or approve rates for electric energy generated by a single nuclear power plant, the following rules shall apply in determining the schedule of ruling amounts for the nuclear decommissioning fund that relates to such nuclear power plant.

(1) A schedule of ruling amounts shall be separately determined pursuant to the rules of paragraphs (a) through (e) of this section for each public utility commission that has determined the amount of decommissioning costs to be included in cost of service for ratemaking purposes with respect to such nuclear power plant (see paragraph (g) of this section).

(2) The separate determination with respect to a public utility commission shall be based on the reasonable assumptions and determinations used by such public utility commission and shall take into account only that portion of the total estimated cost of decommissioning the nuclear power plant that is properly allocable to the ratepayers whose rates are established or approved by such public utility commission.

(3) The ruling amount applicable to the nuclear decommissioning fund for any taxable year is the sum of the ruling amounts for such taxable year determined under the separate schedules of ruling amounts.

(4) The schedule of ruling amounts for the nuclear decommissioning fund is the schedule of the ruling amounts determined under paragraph (f)(3) of this section.

(g) *Requirement of determination by public utility commission of decommissioning costs to be included in cost of service.* The Internal Revenue Service shall not provide a taxpayer with a schedule of ruling amounts for any nuclear decommissioning fund unless a public utility commission that establishes or approves rates for electric energy generated by the nuclear power plant to which the nuclear decommissioning fund relates has—

(1) Determined the amount of decommissioning costs of such nuclear power plant to be included in the taxpayer's cost of service for ratemaking purposes; and

(2) Disclosed the after-tax return and any other assumption and determinations used in establshing or approving such amount for any taxable year beginning on or after January 1, 1987.

(h) *Manner of requesting schedule of ruling amounts*—(1) *In general.* (i) In order to receive a ruling amount for any taxable year, a taxpayer must file a request for a schedule of ruling amounts that complies with the requirements of this paragraph (h), the applicable procedural rules set forth in paragraph (e) of § 601.201 (Statement of Procedural Rules) and the requirements of any applicable revenue procedure that is in effect on the date the request is filed.

(ii) A separate request for a schedule of ruling amounts is required for each nuclear decommissioning fund established by a taxpayer (see paragraph (a) of § 1.468A–5 for rules relating to the number of nuclear decommissioning funds that a taxpayer can establish).

(iii) A request for a schedule of ruling amounts must not contain a request for a ruling on any other issue, whether the issue involves section 468A or another section of the Internal Revenue Code.

(iv) In the case of an affiliated group of corporations that join in the filing of a consolidated return, the common parent of the group may request a schedule of ruling amounts for each member of the group that possesses a qualifying interest in the same nuclear power plant by filing a single submission with the Internal Revenue Service.

(v) A request for a schedule of ruling amounts must be mailed or delivered to the Internal Revenue Service, Associate Chief Counsel (Technical), Attention CC:C:2:6, 1111 Constitution Avenue, NW., Washington, DC 20224.

(vi) Except as otherwise provided in paragraph (b)(1) of § 1.468A–8, the Internal Revenue Service shall not provide or revise a ruling amount applicable to a taxable year in response

to a request for a schedule of ruling amounts that is filed after the deemed payment deadline date (as defined in paragraph (c)(1) of § 1.468A–2) for such taxable year. In determining the date when a request is filed, the principles of sections 7502 and 7503 shall apply.

(vii) Except as provided in paragraph (h)(1)(viii) of this section, a request for a schedule of ruling amounts shall be considered filed only if such request complies substantially with the requirements of this paragraph (h).

(viii) If a request does not comply substantially with the requirements of this paragraph (h), the Internal Revenue Service shall notify the taxpayer of this fact. If the information or materials necessary to comply substantially with the requirements of this paragraph (h) are provided to the Internal Revenue Service within 60 days after such notification, the request shall be considered filed on the date of original submission. If the information or materials necessary to comply substantially with the requirements of this paragraph (h) are not provided within 60 days after such notification, the request shall be considered filed on the date that all information or materials necessary to comply substantially with the requirements of this paragraph (h) are provided.

(2) *Information required.* A request for a schedule of ruling amounts must contain the following information:

(i) The taxpayer's name, address and taxpayer identification number.

(ii) Whether the request is for an initial schedule of ruling amounts, a mandatory review of the schedule of ruling amounts (see paragraph (i)(1) of this section) or an elective review of the schedule of ruling amounts (see paragraph (i)(2) of this section).

(iii) The name and location of the nuclear power plant with respect to which a schedule of ruling amounts is requested.

(iv) A description of the taxpayer's qualifying interest in the nuclear power plant and the percentage of such nuclear power plant that the qualifying interest of the taxpayer represents.

(v) An identification of each public utility commission that establishes or approves rates for the furnishing or sale by the taxpayer of electric energy generated by the nuclear power plant, and, for each public utility commission identified—

(A) Whether the public utility commission has determined the amount of decommissioning costs to be included in the taxpayer's cost of service for ratemaking purposes; and

(B) Whether a proceeding is pending before the public utility commission that may result in an increase or decrease in the amount of decommissioning costs to be included in cost of service.

(vi) For each public utility commission that has determined the amount of decommissioning costs to be included in the taxpayer's cost of service for ratemaking purposes—

(A) The amount of decommissioning costs that are to be included in the taxpayer's cost of service for each taxable year under the current determination and amounts that otherwise are required to be included in the taxpayer's income under section 88 and the regulations thereunder;

(B) A description of the assumptions, estimates and other factors that were used in determining the amounts described in paragraph (h)(2)(vi)(A) of this section, including each of the following if applicable—

(*1*) A description of the proposed method of decommissioning the nuclear power plant (for example, prompt removal/dismantlement, safe storage entombment with delayed dismantlement, or safe storage mothballing with delayed dismantlement);

(*2*) The estimated year in which substantial decommissioning costs will first be incurred;

(*3*) The estimated year in which the decommissioning of the nuclear power plant will be substantially complete (see paragraph (d)(2) of § 1.468A–5 for a definition of substantial completion of decommissioning);

(*4*) The total estimated cost of decommissioning expressed in current dollars (*i.e.*, based on price levels in effect at the time of the current determination);

(*5*) The total estimated cost of decommissioning expressed in future dollars (*i.e.*, based on anticipated price levels when expenses are expected to be paid);

(*6*) For each taxable year in the period that begins with the year specified in paragraph (h)(2)(vi)(B)(*2*) of this section ("the estimated year in which substantial decommissioning costs will first be incurred") and ends with the year specified in paragraph (h)(2)(vi)(B)(*3*) of this section ("the estimated year in which the estimated year in which the decommissioning of the nuclear power plant will be substantially complete"), the estimated cost of decommissioning expressed in future dollars;

(*7*) A description of the methodology used in converting the estimated cost of decommissioning expressed in current dollars to the estimated cost of decommissioning expressed in future dollars;

(*8*) The assumed after-tax rate of return to be earned by the amounts collected for decommissioning (if two or more after-tax rates of return are assumed by the public utility commission, each assumed after-tax rate of return and the amounts collected for decommissioning to which each assumed after-tax rate of return applies);

(*9*) The proposed period over which decommissioning costs will be included in the cost of service of the taxpayer and the projected amount that will be included in cost of service for each taxable year in the proposed period;

(*10*) The estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes as determined under the ratemaking assumptions that were used to determine the last rates (whether interim or final) that were established or approved by the applicable public utility commission prior to the filing of the current request for a schedule of ruling amounts (or a corresponding date in the case of a taxpayer whose interest in the nuclear power plant is described in paragraph (b)(2)(ii) of § 1.468A–1; see paragraph (e)(4) of this section); and

(*11*) The estimated date on which the nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes as determined under the ratemaking assumptions that were used by the applicable public utility commission in establishing or approving rates during the first ratemaking proceeding in which the nuclear power plant was included in the taxpayer's rate base (or a corresponding date in the case of a taxpayer whose interest in the nuclear power plant is described in paragraph (b)(2)(ii) of § 1.468A–1; see paragraph (e)(4) of this section);

(C) A copy of such portions of any order or opinion of the public utility commission as pertain to the commission's most recent determination of the amount of decommissioning costs to be included in cost of service; and

(D) A copy of each engineering or cost study that was relied on or used by the taxpayer or the public utility commission in determining the amount of decommissioning costs to be included in the taxpayer's cost of service under the current determination.

(vii) For each proceeding pending before a public utility commission that may result in an increase or decrease in the amount of decommissioning costs to be included in the taxpayer's cost of service—

(A) A description of the stage of the proceeding;

(B) The amount of decommissioning costs that are proposed to be included in the taxpayer's cost of service for each taxable year;

(C) A description of the assumptions, estimates and other factors that were used in determining the amount of decommissioning costs that are proposed to be included in the taxpayer's cost of service for each taxable year, including each of the items described in paragraph (h)(2)(vi)(B) of this section if applicable; and

(D) A copy of each engineering or cost study that was relied on or used by the taxpayer or the public utility commission in determining the amount of decommissioning costs that are proposed to be included in the taxpayer's cost of service.

(viii) A proposed schedule of ruling amounts for each taxable year remaining in the funding period as of the date the schedule of ruling amounts will first apply.

(ix) A description of the assumptions, estimates and other factors that were used in determining the proposed schedule of ruling amounts, including each of the following if applicable—

(A) The level funding limitation period (as such term is defined in paragraph (b)(2) of this section);

(B) The funding period (as such term is defined in paragraph (c) of this section);

(C) The assumed after-tax rate of return to be earned by the assets of the nuclear decommissioning fund;

(D) The fair market value of the assets (if any) of the nuclear decommissioning fund as of the first day of the first taxable year to which the schedule of ruling amounts will apply;

(E) The amount expected to be earned by the assets of the nuclear decommissioning fund (based on the after-tax rate of return applicable to the fund) over the period that begins on the first day of the first taxable year to which the schedule of ruling amounts will apply and ends on the last day of the funding period;

(F) The amount of decommissioning costs allocable to the nuclear decommissioning fund (as determined under paragraph (d) of this section);

(G) The total estimated cost of decommissioning (as such term is defined in paragraph (d)(2) of this section);

(H) The taxpayer's share of the total estimated cost of decommissioning (as such term is defined in paragraph (d)(3) of this section);

(I) The qualifying percentage (as such term is defined in paragraph (d)(4)(i) of this section);

(J) The estimated period for which the nuclear decommissioning fund is to be in effect (as such term is defined in paragraph (d)(4)(ii) of this section); and

(K) The estimated useful life of the nuclear power plant (as such term is defined in paragraph (d)(4)(iii) of this section).

(x) If the request is for a revised schedule of ruling amounts, the after-tax rate of return earned by the assets of the nuclear decommissioning fund for each taxable year in the period that begins with the date of the inital contribution to the fund and ends with the first day of the first taxable year to which the revised schedule of ruling amounts applies.

(xi) If applicable, an explanation of the need for a schedule of ruling amounts determined on a basis other than the rules of paragraphs (a) through (g) of this section and a description of an alternative basis for determining a schedule of ruling amounts (see paragraph (a)(5) of this section).

(xii) Any other information required by the Internal Revenue Service that may be necessary or useful in determining the schedule of ruling amounts.

(3) *Administrative procedures.* The Internal Revenue Service may prescribe administrative procedures that supplement the provisions of paragraph (h) (1) and (2) of this section. In addition, the Internal Revenue Service may, in its discretion, waive the requirements of paragraph (h) (1) and (2) of this section under appropriate circumstances.

(i) *Review and revision of schedule of ruling amounts*—(1) *Mandatory review.* (i) Any taxpayer that has obtained a schedule of ruling amounts pursuant to paragraph (h) of this section must file a request for a revised schedule of ruling amounts on or before the deemed payment deadline date for the 10th taxable year that begins after the taxable year in which the most recent schedule of ruling amounts was received. The first taxable year to which the revised schedule of ruling amounts applies shall be the 10th taxable year that begins after the taxable year in which the most recent schedule of ruling amounts was received.

(ii) Any taxpayer that has obtained a formula or method for determining a schedule of ruling amounts (see paragraph (a)(4) of this section) must file a request for a revised schedule of ruling amounts on or before the deemed payment deadline date for the 5th taxable year that begins after the taxable year in which the most recent formula or method was received. The first taxable year to which the revised schedule of ruling amounts applies (whether or not the ruling amounts continue to be determined pursuant to a formula or method) shall be the 5th taxable year that begins after the taxable year in which the most recent formula or method was received.

(iii) A taxpayer is required to request a revised schedule of ruling amounts for a nuclear decommissioning fund If—

(A) Any public utility commission that establishes or approves rates for the furnishing or sale of electric energy generated by a nuclear power plant to which the nuclear decommissioning fund relates—

(*1*) Increases the proposed period over which decommissioning costs of such nuclear power plant will be included in cost of service for ratemaking purposes;

(*2*) Adjusts the estimated date on which such nuclear power plant will no longer be included in the taxpayer's rate base for ratemaking purposes; or

(*3*) Reduces the amount of decommissioning costs to be included in cost of service for any taxable year; and

(B) The taxpayer's most recent request for a schedule of ruling amounts did not provide notice to the Internal Revenue Service of such action by the public utility commission.

(iv) If a taxpayer is required to request a revised schedule of ruling amounts by reason of an action described in paragraph (i)(1)(iii) of this section, the taxpayer must file the request for a revised schedule of ruling amounts on or before the deemed payment deadline date for the first taxable year in which rates that reflect such action become effective. The first taxable year to which the revised schedule of ruling amounts applies shall be the first taxable year in which such rates become effective.

(v) A request for a schedule of ruling amounts required by this paragraph (i)(1) must be made in accordance with the rules of paragraph (h) of this section. If a taxpayer does not properly file a request for a revised schedule of ruling amounts by the date provided in paragraph (i)(1) (i), (ii) or (iv) of this section (whichever is applicable), the taxpayer's ruling amount for the first taxable year to which the revised schedule of ruling amounts would have applied and for all succeeding taxable years until a new schedule is obtained shall be zero, unless, in its discretion, the Internal Revenue Service provides otherwise in such new schedule of ruling amounts.

(vi) See paragraph (f)(3) of § 1.468A-2 for the application of the rules in paragraph (i)(1) (iii), (iv), and (v) of this

section in the case of certain retroactive adjustments to interim rate orders.

(2) *Elective review.* Any taxpayer that has obtained a schedule of ruling amounts pursuant to paragraph (h) of this section can request a revised schedule of ruling amounts. Such a request must be made in accordance with the rules of paragraph (h) of this section; thus, the Internal Revenue Service shall not provide a revised ruling amount applicable to a taxable year in response to a request for a schedule of ruling amounts that is filed after the deemed payment deadline date for such taxable year (see paragraph (h)(1)(vi) of this section).

(3) *Determination of revised schedule of ruling amounts.* A revised schedule of ruling amounts for a nuclear decommissioning fund shall be determined under this section without regard to any schedule of ruling amounts for such nuclear decommissioning fund that was issued prior to such revised schedule. Thus, a ruling amount specified in a revised schedule of ruling amounts for any taxable year in the level funding limitation period can be less than one or more ruling amounts specified in a prior schedule of ruling amounts for a prior taxable year.

(j) *Special rule permitting payments to a nuclear decommissioning fund before receipt of an initial or revised ruling amount applicable to a taxable year.* (1) If an electing taxpayer has filed a timely request for an initial or revised ruling amount for a taxable year beginning on or after January 1, 1987, and does not receive the ruling amount on or before the deemed payment deadline date for such taxable year, the taxpayer may make a payment to a nuclear decommissioning fund on the basis of the ruling amount proposed in the taxpayer's request. Thus, under the preceding sentence, an electing taxpayer may make a payment to a nuclear decommissioning fund for such taxable year that does not exceed the lesser of—

(i) The cost of service amount applicable to the nuclear decommissioning fund for such taxable year; or

(ii) The ruling amount proposed by the taxpayer for such taxable year in a timely filed request for a schedule of ruling amounts.

(2) If an electing taxpayer makes a payment to a nuclear decommissioning fund for any taxable year pursuant to paragraph (j)(1) of this section and the ruling amount that is provided by the Internal Revenue Service is greater than the ruling amount proposed by the taxpayer for such taxable year, the taxpayer is not allowed to make an additional payment to the fund for such taxable year after the deemed payment deadline date for such taxable year.

(3) If—(i) An electing taxpayer makes a payment to a nuclear decommissioning fund for any taxable year pursuant to paragraph (j)(1) of this section,

(ii) The ruling amount that is provided by the Internal Revenue Service is less than the ruling amount proposed by the taxpayer for such taxable year, and

(iii) As a result, there is an excess contribution (as defined in paragraph (c)(2)(ii) of § 1.468A–5) for such taxable year,

Then the amount of the excess contribution is not deductible (see paragraph (b)(1) of § 1.468A–2) and must be withdrawn by the taxpayer pursuant to the rules of paragraph (c)(2)(i) of § 1.468A–5. Thus, an electing taxpayer that files a return based on a payment made pursuant to paragraph (j)(1) of this section should file an amended return if an excess contribution results when the ruling amount is issued for such taxable year.

§ 1.468A–4 Treatment of nuclear decommissioning fund.

(a) *In general.* A nuclear decommissioning fund is subject to tax on all of its modified gross income (as defined in paragraph (b) of this section) for any taxable year at a single rate equal to the maximum rate in effect under section 11(b) (determined without regard to any rate that is added to the otherwise applicable rate in order to offset the effect of the graduated rate schedule). Such tax is in lieu of any other tax that may be imposed under subtitle A of the Internal Revenue Code on the income earned by the assets of the nuclear decommissioning fund.

(b) *Modified gross income.* For purposes of this section, the term "modified gross income" means gross income as defined under section 61 computed with the following modifications:

(1) The amount of any payment to the nuclear decommissioning fund with respect to which a deduction is allowed under section 468A(a) is excluded from gross income.

(2) A deduction is allowed for the amount of administrative costs and other incidental expenses of the nuclear decommissioning fund (including taxes, legal expenses, accounting expenses, actuarial expenses and trustee expenses, but not including decommissioning costs) that are otherwise deductible and that are paid by the nuclear decommissioning fund to any person other than the electing taxpayer. An expense is otherwise deductible for purposes of this paragraph (b)(2) if it would be deductible under chapter 1 of the Internal Revenue Code in determining the taxable income of a corporation. For example, because Federal income taxes are not deductible under chapter 1 of the Internal Revenue Code in determining the taxable income of a corporation, the tax imposed by section 468A(e)(2) and paragraph (a) of this section is not deductible in determining the modified gross income of a nuclear decommissioning fund. Similarly, because certain expenses allocable to tax-exempt interest income are not deductible under section 265 of the Internal Revenue Code in determining the taxable income of a corporation, such expenses are not deductible in determining the modified gross income of a nuclear decommissioning fund.

(3) A deduction is allowed for the amount of otherwise deductible losses that are sustained by the nuclear decommissioning fund in connection with the sale, exchange or worthlessness of an investment described in paragraph (a)(3)(i)(C) of § 1.468A–5. A loss is otherwise deductible for purposes of this paragraph (b)(3) if such a loss would be deductible by a corporation under section 165 (f) or (g) and sections 1211(a) and 1212(a).

(4) A deduction is allowed for the amount of an otherwise deductible net operating loss of the nuclear decommissioning fund. For purposes of this paragraph (b), the net operating loss of a nuclear decommissioning fund for a taxable year is the amount by which the deductions allowable under paragraph (b) (2) and (3) of this section exceed the gross income of the nuclear decommissioning fund computed with the modification described in paragraph (b)(1) of this section. A net operating loss is otherwise deductible for purposes of this paragraph (b)(4) if such a net operating loss would be deductible by a corporation under section 172(a).

(c) *Special rules*—(1) *Period for computation of modified gross income.* The modified gross income of a nuclear decommissioning fund must be computed on the basis of the taxable year of the electing taxpayer. If an electing taxpayer changes its taxable year, each nuclear decommissioning fund of the electing taxpayer must change to the new taxable year. See section 442 and § 1.442–1 for rules relating to the change to a new taxable year.

(2) *Gain or loss upon distribution of property by a fund.* A distribution of property by a nuclear decommissioning fund (whether an actual distribution or a

deemed distribution) shall be considered a disposition of property by the nuclear decommissioning fund for purposes of section 1001. In determining the amount of gain or loss from such disposition, the amount realized by the nuclear decommissioning fund shall be the fair market value of the property on the date of disposition.

(3) *Denial of credits against tax.* The tax imposed on the modified gross income of a nuclear decommissioning fund under paragraph (a) of this section is not to be reduced or offset by any credits against tax provided by part IV of subchapter A of chapter 1 of the Internal Revenue Code other than the credit provided by section 31(c) for amounts withheld under section 3406 (back-up withholding).

(4) *Other corporate taxes inapplicable.* Although the modified gross income of a nuclear decommissioning fund is subject to tax at a rate equal to the maximum rate in effect under section 11(b) (determined without regard to any rate that is added to the otherwise applicable rate in order to offset the effect of the graduated rate schedule), a nuclear decommissioning fund is not subject to the other taxes imposed on corporations under subtitle A of the Internal Revenue Code. For example, a nuclear decommissioning fund is not subject to the alternative minimum tax imposed by section 55, the accumulated earnings tax imposed by section 531, the personal holding company tax imposed by section 541, and the alternative tax imposed on a corporation under section 1201(a).

(d) *Treatment as corporation for purposes of subtitle F.* For purposes of subtitle F of the Internal Revenue Code and the regulations thereunder, a nuclear decommissioning fund is to be treated as if it were a corporation and the tax imposed by section 468A(e)(2) and paragraph (a) of this section is to be treated as a tax imposed by section 11. Thus, for example, the following rules apply:

(1) A nuclear decommissioning fund must file a return with respect to the tax imposed by section 468A(e)(2) and paragraph (a) of this section for each taxable year (or portion thereof) that the fund is in existence even though no amount is included in the gross income of the fund for such taxable year. The return is to be made on Form 1120–ND in accordance with the instructions relating to such form. For purposes of this paragraph (d)(1), a nuclear decommissioning fund is in existence for the period that—

(i) Begins on the date that the first deductible payment is actually made to such nuclear decommissioning fund; and

(ii) Ends on the date of termination (see paragraph (d) of § 1.468A–5), the date that the entire fund is disqualified (see paragraph (c) of § 1.468A–5), or the date that the electing taxpayer disposes of its entire qualifying interest in the nuclear power plant to which the nuclear decommissioning fund relates, whichever is applicable.

(2) For each taxable year of the nuclear decommissioning fund, the return described in paragraph (d)(1) of this section must be filed on or before the 15th day of the third month following the close of such taxable year unless the nuclear decommissioning fund is granted an extension of time for filing under section 6081. If such an extension is granted for any taxable year, the return for such taxable year must be filed on or before the extended due date for such taxable year. In no event will the filing of the initial return of a nuclear decommissioning fund be required before January 6, 1987.

(3) A nuclear decommissioning fund must provide its employer identification number on returns, statements and other documents as required by the forms and instructions relating thereto. The employer identification number is obtained by filing a Form SS–4 in accordance with the instructions relating thereto.

(4) A nuclear decommissioning fund must make payments of estimated tax during its taxable year as provided in section 6154(b) if its estimated tax for such taxable year can reasonably be expected to be $40 or more. For purposes of section 6154 and this section, the estimated tax of a nuclear decommissioning fund for any taxable year is the amount that the nuclear decommissioning fund estimates as the amount of tax imposed by section 468A(e)(2) and paragraph (a) of this section for such taxable year.

(5) A nuclear decommissioning fund must deposit all payments of tax imposed by section 468A(e)(2) and paragraph (a) of this section (including any payments of estimated tax) with an authorized government depositary in accordance with § 1.6302–1.

(6) A nuclear decommissioning fund is subject to the addition to tax imposed by section 6655 in case of a failure to pay estimated income tax. For purposes of section 6655 and this section—

(i) The tax with respect to which the amount of the underpayment is computed in the case of a nuclear decommissioning fund is the tax imposed by section 468A(e)(2) and paragraph (a) of this section; and

(ii) A nuclear decommissioning fund is to be considered a large corporation under section 6655(i) if such nuclear decommissioning fund had modified gross income (as defined in paragraph (b) of this section) of $1,000,000 or more for any taxable year during the testing period.

§ 1.468A–5 Nuclear decommissioning fund qualification requirements; prohibitions against self-dealing; disqualification of nuclear decommissioning fund; termination of fund upon substantial completion of decommissioning.

(a) *Qualification requirements*—(1) *In general.* (i) A nuclear decommissioning fund must be established and maintained at all times in the United States pursuant to an arrangement that qualifies as a trust under State law. Such trust must be established for the exclusive purpose of providing funds for the decommissioning of one or more nuclear power plants, but a single trust agreement may establish multiple funds for such purpose. Thus—

(A) Two or more nuclear decommissioning funds can be established and maintained pursuant to a single trust agreement; and

(B) One or more funds that are to be used for the decommissioning of a nuclear power plant and that do not qualify as nuclear decommissioning funds under this paragraph (a) (nonqualified decommissioning funds) can be established and maintained pursuant to a trust agreement that governs one or more nuclear decommissioning funds.

(ii) A separate nuclear decommissioning fund is required for each electing taxpayer and for each nuclear power plant with respect to which an electing taxpayer possesses a qualifying interest. The Internal Revenue Service shall issue a separate schedule of ruling amounts with respect to each nuclear decommissioning fund and each nuclear decommissioning fund must file a separate income tax return even if other nuclear decommissioning funds or nonqualified decommissioning funds are established and maintained pursuant to the trust agreement governing such fund or the assets of other nuclear decommissioning funds or nonqualified decommissioning funds are pooled with the assets of such fund.

(iii) The assets of two or more nuclear decommissioning funds (whether or not established pursuant to a single trust agreement) can be pooled for the purpose of investing the assets in property described in paragraph (a)(3)(i)(C) of this section if and only if—

(A) The trustee of each nuclear decommissioning fund separately accounts for the contributions, earnings,

expenses, and distributions of such fund;

(B) The earnings and expenses are reasonably apportioned among such nuclear decommissioning funds; and

(C) The books and records of such funds enable the Internal Revenue Service to verify that the requirements of section 468A and §§ 1.468A–1 through 1.468A–5, 1.468A–7 and 1.468A–8 are satisfied with respect to each nuclear decommissioning fund.

(iv) The assets of nonqualified decommissioning funds can be pooled with the assets of one or more nuclear decommissioning funds for the purpose of investing the assets in property described in paragraph (a)(3)(i)(C) of this section if and only if the requirements of paragraph (a)(1)(iii) (A) and (C) of this section are satisfied and earnings and expenses are reasonably apportioned among the pooled funds.

(v) An electing taxpayer can maintain only one nuclear decommissioning fund for each nuclear power plant with respect to which the taxpayer elects the application of section 468A. If a nuclear power plant is subject to the ratemaking jurisdiction of two or more public utility commissions and any such public utility commission requires a separate fund to be maintained for the benefit of ratepayers whose rates are established or approved by the public utility commission, the separate funds maintained for such plant (whether or not established and maintained pursuant to a single trust agreement) shall be considered a single nuclear decommissioning fund for purposes of section 468A and §§ 1.468A–1 through 1.468A–5, 1.468A–7 and 1.468A–8. Thus, for example, the Internal Revenue Service shall issue one schedule of ruling amounts with respect to such nuclear power plant (see paragraph (f) of § 1.468A–3), the nuclear decommissioning fund must file a single income tax return (see paragraph (d)(1) of § 1.468A–4), and, if the Internal Revenue Service disqualifies the nuclear decommissioning fund, the assets of each separate fund are treated as distributed on the date of disqualification (see paragraph (c)(3) of this section).

(2) *Limitation on contributions.* Except as otherwise provided in paragraph (b)(2)(ii) of § 1.468A–8 (relating to a special transitional rule), a nuclear decommissioning fund is not permitted to accept any contributions in cash or property other than cash payments with respect to which a deduction is allowed under section 468A(a) and paragraph (a) of § 1.468A–2. Thus, for example, unless the exception contained in paragraph (b)(2)(ii) of § 1.468A–8 applies, securities may not be contributed to a nuclear decommissioning fund even if the taxpayer or a fund established by the taxpayer previously held such securities for the purpose of providing funds for the decommissioning of a nuclear power plant.

(3) *Limitation on use of fund*—(i) *In general.* The assets of a nuclear decommissioning fund are to be used exclusively—

(A) To satisfy, in whole or in part, the liability of the electing taxpayer for decommissioning costs of the nuclear power plant to which the nuclear decommissioning fund relates;

(B) To pay administrative costs and other incidental expenses of the nuclear decommissioning fund; and

(C) To the extent that the assets of the nuclear decommissioning fund are not currently required for the purposes described in paragraph (a)(3)(i) (A) or (B) of this section, to invest directly in—

(*1*) Public debt securities of the United States;

(*2*) Obligations of a State or local government that are not in default as to principal or interest; or

(*3*) Time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(7) (1982)), located in the United States.

(ii) *Terms defined.* The following terms are defined for purposes of paragraph (a)(3)(i) of this section:

(A) The term "administrative costs and other incidental expenses of a nuclear decommissioning fund" means all ordinary and necessary expenses incurred in connection with the operation of the nuclear decommissioning fund. Such term includes the tax imposed by section 468A(e)(2) and paragraph (a) of § 1.468A–4, any State or local tax imposed on the income or the assets of the fund, legal expenses, accounting expenses, actuarial expenses and trustee expenses. Such term does not include decommissioning costs. Such term also does not include the excise tax imposed on the trustee or other disqualified person under section 4951 or the reimbursement of any expenses incurred in connection with the assertion of such tax unless such expenses are considered reasonable and necessary under section 4951(d)(2)(C) and it is determined that the trustee or other disqualified person is not liable for the excise tax.

(B) The term "public debt securities of the United States" means obligations that are taken into consideration for purposes of the public debt limit.

(C) The term "obligations of a State or local government" means obligations of a State or local governmental unit the interest on which is exempt from tax under section 103(a).

(D) The term "time or demand deposits" includes checking accounts, savings accounts, certificates of deposit or other time or demand deposits. The term does not include common or collective trust funds, such as a common trust fund as defined in section 584.

(b) *Prohibitions against self-dealing*—(1) *In general.* Except as otherwise provided in this paragraph (b), the excise taxes imposed by section 4951 shall apply to each act of self-dealing between a disqualified person and a nuclear decommissioning fund.

(2) *Self-dealing defined.* For purposes of this paragraph (b), the term "self-dealing" means any act described in section 4951(d), except—

(i) A payment by a nuclear decommissioning fund for the purpose of satisfying, in whole or in part, the liability of the electing taxpayer for decommissioning costs of the nuclear power plant to which the nuclear decommissioning fund relates;

(ii) A withdrawal of an excess contribution by the electing taxpayer pursuant to the rules of paragraph (c)(2) of this section;

(iii) A withdrawal by the electing taxpayer of amounts that have been treated as distributed under paragraph (c)(3) of this section;

(iv) A payment of amounts remaining in a nuclear decommissioning fund to the electing taxpayer after the termination of such fund (as determined under paragraph (d) of this section);

(v) Any act described in section 4951(d)(2) (B) or (C); or

(vi) A payment by a nuclear decommissioning fund for the performance of trust functions and certain general banking services by a bank or trust company which is a disqualified person, where the banking services are reasonable and necessary to carry out the purposes of the fund, if the compensation paid to the bank or trust company, taking into account the fair interest rate for the use of the funds by the bank or trust company, for such services is not excessive. The general banking services allowed by this paragraph (b)(2)(vi) are—

(A) Checking accounts, as long as the bank does not charge interest on any overwithdrawals,

(B) Savings accounts, as long as the fund may withdraw its funds on no more than 30 days' notice without subjecting itself to a loss of interest on its money

for the time during which the money was on deposit, and

(C) Safekeeping activities. (See example 3 of § 53.4941(d)–3(c)(2).)

(3) *Disqualified person defined.* For purposes of this paragraph (b), the term "disqualified person" includes each person described in section 4951(e)(4) and paragraph (d) of § 53.4951–1.

(c) *Disqualification of nuclear decommissioning fund*—(1) *In general.* Except as otherwise provided in paragraph (c)(2) of this section, if at any time during a taxable year of a nuclear decommissioning fund—

(i) The nuclear decommissioning fund does not satisfy the requirements of paragraph (a) of this section, or

(ii) The nuclear decommissioning fund and a disqualified person engage in an act of self-dealing (as defined in paragraph (b)(2) of this section), the Internal Revenue Service may, in its discretion, disqualify all or any portion of the fund as of the date that the fund does not satisfy the requirements of paragraph (a) of this section or the date on which the act of self-dealing occurs, whichever is applicable, or as of any subsequent date ("date of disqualification"). The Internal Revenue Service shall notify the electing taxpayer of the disqualification of a nuclear decommissioning fund and the date of disqualification by registered or certified mail to the last known address of the electing taxpayer (the "notice of disqualification").

(2) *Exception to disqualification*—(i) *In general.* A nuclear decommissioning fund will not be disqualified under paragraph (c)(1) of this section by reason of an excess contribution or the withdrawal of such excess contribution by an electing taxpayer if the amount of the excess contribution is withdrawn by the electing taxpayer on or before the date prescribed by law (including extensions) for filing the return of the nuclear decommissioning fund for the taxable year to which the excess contribution relates. In the case of an excess contribution that is the result of a payment made pursuant to paragraph (j)(1) of § 1.468A–3, a nuclear decommissioning fund will not be disqualified under paragraph (c)(1) of this section if the amount of the excess contribution is withdrawn by the electing taxpayer on or before the later of—

(A) The date prescribed by law (including extensions) for filing the return of the nuclear decommissioning fund for the taxable year to which the excess contribution relates; or

(B) The date that is 30 days after the date that the taxpayer receives the ruling amount for such taxable year.

(ii) *Excess contribution defined.* For purposes of this section, an excess contribution is the amount by which cash payments made (or deemed made) to a nuclear decommissioning fund during any taxable year exceed the payment limitation contained in section 468A(b) and paragraph (b) of § 1.468A–2.

(iii) *Taxation of income attributable to an excess contribution.* The income of a nuclear decommissioning fund attributable to an excess contribution is required to be included in the gross income of the nuclear decommissioning fund under paragraph (b) of § 1.468A–4.

(3) *Effect of disqualification.* If all or any portion of a nuclear decommissioning fund is disqualified under paragraph (c)(1) of this section, the portion of the nuclear decommissioning fund that is disqualified is treated as distributed to the electing taxpayer on the date of disqualification. Such a distribution shall be treated for purposes of section 1001 as a disposition of property held by the nuclear decommissioning fund (see paragraph (c)(2) of § 1.468A–4). In addition, the electing taxpayer must include in gross income for the taxable year that includes the date of disqualification an amount equal to the product of—

(i) The fair market value of the assets of the fund determined as of the date of disqualification, reduced by—

(A) The amount of any excess contribution that was not withdrawn before the date of disqualification if no deduction was allowed with respect to such excess contribution;

(B) The amount of any deemed distribution that was not actually distributed before the date of disqualification (as determined under paragraph (d)(2)(iii) of § 1.468A–2) if the amount of the deemed distribution was included in the gross income of the electing taxpayer for the taxable year in which the deemed distribution occurred; and

(C) The amount of any tax that—

(*1*) Is imposed on the income of the fund;

(*2*) Is attributable to income taken into account before the date of disqualification or as a result of the disqualification; and

(*3*) Has not been paid as of the date of disqualification; and

(ii) The fraction of the nuclear decommissioning fund that was disqualified under paragraph (c)(1) of this section.

Contributions made to a disqualified fund after the date of disqualification are not deductible under section 468A(a) and paragraph (a) of § 1.468A–2, or, if the fund is disqualified only in part, are deductible only to the extent provided in the notice of disqualification. In addition, if any assets of the fund that are deemed distributed under this paragraph (c)(3) are held by the fund after the date of disqualification (or if additional assets are acquired with nondeductible contributions made to the fund after the date of disqualification), the income earned by such assets after the date of disqualification must be included in the gross income of the electing taxpayer (see section 671) to the extent that such income is otherwise includible under chapter 1 of the Internal Revenue Code. An electing taxpayer can establish a nuclear decommissioning fund to replace a fund that has been disqualified in its entirety only if the Internal Revenue Service specifically consents to the establishment of a replacement fund in connection with the issuance of an initial schedule of ruling amounts for such replacement fund.

(d) *Termination of nuclear decommissioning fund upon substantial completion of decommissioning*—(1) *In general.* Upon substantial completion of the decommissioning of a nuclear power plant to which a nuclear decommissioning fund relates, such nuclear decommissioning fund shall be considered terminated and treated as having distributed all of its assets on the date the termination occurs. Such a distribution shall be treated for purposes of section 1001 as a disposition of property held by the nuclear decommissioning fund (see paragraph (c)(2) of § 1.468A–4). In addition, the electing taxpayer shall include in gross income for the taxable year in which the termination occurs an amount equal to the fair market value of the assets of the fund determined as of the date of termination, reduced by—

(i) The amount of any deemed distribution that was not actually distributed before the date of termination if the amount of the deemed distribution was included in the gross income of the electing taxpayer for the taxable year in which the deemed distribution occurred; and

(ii) The amount of any tax that—

(A) Is imposed on the income of the fund;

(B) Is attributable to income taken into account before the date the termination occurs or as a result of the termination; and

(C) Has not been paid as of the date the termination occurs.

Contributions made to a nuclear decommissioning fund after the termination date are not deductible under section 468A(a) and paragraph (a)

of § 1.468A–2. In addition, if any assets are held by the fund after the termination date, the income earned by such assets after the termination date must be included in the gross income of the electing taxpayer (see section 671) to the extent that such income is otherwise includible under chapter 1 of the Internal Revenue Code. Finally, an electing taxpayer using an accrual method of accounting is allowed a deduction for nuclear decommissioning costs that are incurred during any taxable year (see paragraph (e) of § 1.468A–2) even if such costs are incurred after substantial completion of decommissioning (*e.g.*, expenses incurred to monitor or safeguard the plant site).

(2) *Substantial completion of decommissioning defined.* (i) Except as otherwise provided in paragraph (d)(2)(ii) of this section, the substantial completion of the decommissioning of a nuclear power plant occurs on the date that the maximum acceptable radioactivity levels mandated by the Nuclear Regulatory Commission with respect to a decommissioned nuclear power plant are satisfied (the "substantial completion date").

(ii) If a significant portion of the total estimated decommissioning costs with respect to a nuclear power plant are not incurred on or before the substantial completion date, an electing taxpayer may request, and the Internal Revenue Service shall issue, a ruling that designates the date on which substantial completion of decommissioning occurs. The date designated in the ruling shall not be later than the last day of the third taxable year after the taxable year that includes the substantial completion date. The request for a ruling under this paragraph (d)(2)(ii) must be filed during the taxable year that includes the substantial completion date and must comply with the procedural rules in effect at the time of the request.

§ 1.468A–6 Disposition of an interest in a nuclear power plant. [Reserved]

§ 1.468A–7 Manner of and time for making election.

(a) *In general.* An eligible taxpayer is allowed a deduction for the taxable year in which the taxpayer makes a cash payment (or is deemed to make a cash payment) to a nuclear decommissioning fund only if the taxpayer elects the application of section 468A. A separate election is required for each nuclear decommissioning fund and for each taxable year with respect to which payments are to be deducted under section 468A. In the case of an affiliated group of corporations that join in the filing of a consolidated return for a taxable year, the common parent must make a separate election on behalf of each member whose payments to a nuclear decommissioning fund during such taxable year are to be deducted under section 468A. The election under section 468A for any taxable year is irrevocable and must be made by attaching a statement ("Election Statement") and a copy of the schedule of ruling amounts provided pursuant to the rules of § 1.468A–3 to the taxpayer's Federal income tax return (or, in the case of an affiliated group of corporations that join in the filing of a consolidated return, the consolidated return) for such taxable year. Except as otherwise provided in paragraph (b)(3) of § 1.468A–8, the return to which the Election Statement and a copy of the schedule of ruling amounts is attached must be filed on or before the time prescribed by law (including extensions) for filing the return for the taxable year with respect to which payments are to be deducted under section 468A.

(b) *Required information.* The Election Statement must include the following information:

(1) The legend "Election Under Section 468A" typed or legibly printed at the top of the first page.

(2) The electing taxpayer's name, address and taxpayer identification number (or, in the case of an affiliated group of corporations that join in the filing of a consolidated return, the name, address and taxpayer identification number of each electing taxpayer).

(3) The taxable year for which the election is made.

(4) For each nuclear decommissioning fund for which an election is made—

(i) The name and location of the nuclear power plant to which the fund relates;

(ii) The name and employer identification number of the nuclear decommissioning fund;

(iii) The total amount of actual cash payments made to the nuclear decommissioning fund during the taxable year that were not treated as deemed cash payments under paragraph (c)(1) of § 1.468A–2 for a prior taxable year;

(iv) The total amount of cash payments deemed made to the nuclear decommissioning fund under paragraph (c)(1) of § 1.468A–2 for the taxable year; and

(v) The cost of service amount for the taxable year (see paragraph (b)(2) of § 1.468A–2).

§ 1.468A–8 Effective date and transitional rules.

(a) *Effective date*—(1) *In general.* Section 468A and §§ 1.468A–1 through 1.468A–5, 1.468A–7 and 1.468A–8 are effective on July 18, 1984, and apply with respect to taxable years ending on or after such date.

(2) *Cut-off method applicable to electing taxpayers.* Any amount of nuclear decommissioning costs taken into account before July 18, 1984, for a taxable year beginning before such date, is not allowable as a deduction after July 17, 1984, under section 468A(c)(2) and paragraph (e) of § 1.468A–2.

(b) *Transitional rules*—(1) *Time for filing request for schedule of ruling amounts.* The Internal Revenue Service shall provide a ruling amount for any taxable year that ends on or after July 18, 1984, and begins before January 1, 1987, if—

(i) Paragraph (g) of § 1.468A–3 is satisfied for the taxable year; and

(ii) The taxpayer files a request for a schedule of ruling amounts that includes a proposed ruling amount for the taxable year on or before June 1, 1988.

(2) *Manner of and time for making contributions to a nuclear decommissioning fund.* (i) The amount of any contribution (including a contribution of property allowed under paragraph (b)(2)(ii) of this section) to a nuclear decommissioning fund that relates to a taxable year that ends on or after July 18, 1984, and begins before January 1, 1987, shall be deemed made during such taxable year if—

(A) The taxpayer makes such contribution on or before the 30th day after the date the taxpayer receives a ruling amount applicable to such taxable year; and

(B) The taxpayer irrevocably designates the amount of such contribution as relating to such taxable year on the Election Statement attached to its Federal income tax return (or amended return) for such taxable year.

(ii) (A) An electing taxpayer may contribute property to a nuclear decommissioning fund if the property—

(*1*) Is described in paragraph (a)(3)(i)(C) of § 1.468–5;

(*2*) Was acquired after July 18, 1984, and before March 3, 1988; and

(*3*) Is contributed for any taxable year ending after July 18, 1984, and beginning before March 3, 1988.

(B) If a taxpayer contributes property to a nuclear decommissioning fund under this paragraph (b)(2)(ii)—

(*1*) The amount of the contribution (and the basis of the property to the nuclear decommissioning fund) shall equal the fair market value of the

property on the date the property is contributed to the nuclear decommissioning fund;

(2) The contribution of the property to the nuclear decommissioning fund shall be considered a sale or exchange of the property by the taxpayer for purposes of section 1001; and

(3) For purposes of section 1001, the amount realized by the taxpayer shall be the fair market value of the property on the date the property was contributed to the nuclear decommissioning fund.

(iii) A fund established by a taxpayer for the purpose of paying the decommissioning costs of a nuclear power plant is not treated as a nuclear decommissioning fund before the earlier of—

(A) The date the taxpayer receives an initial schedule of ruling amounts with respect to the fund, or

(B) The first day of the first taxable year of the taxpayer that begins on or after January 1, 1987,

even if the taxpayer elects the application of section 468A for a taxable year that begins before such date. Any income earned before such date by the assets of a fund that satisfies the requirements of § 1.468A–5 must be included in the gross income of the taxpayer treated under section 671 as the owner of such assets.

(iv) If a fund is first treated as a nuclear decommissioning fund on the date described in paragraph (b)(2)(iii) of this section—

(A) The assets held in the fund on such date shall be treated for purposes of this paragraph (b)(2) as assets contributed to the nuclear decommissioning fund on such date; and

(B) The withdrawal of any such assets on or before the date prescribed by law (including extensions) for filing the return of the nuclear decommissioning fund for the taxable year that includes such date shall be treated in the same manner as the withdrawal of an excess contribution (see paragraph (c)(2) of § 1.468A–5).

(3) *Manner of and time for making election.* A taxpayer may elect the application of section 468A for a taxable year that ends on or after July 18, 1984, and begins before January 1, 1987, by attaching the Election Statement and a copy of the schedule of ruling amounts to—

(i) A return that is filed on or before the time prescribed by law (including extensions) for filing to return for such taxable year; or

(ii) An amended return for such taxable year that is filed on or before the 90th day after the date that the taxpayer receives a ruling amount for such table year.

(4) *Determination of cost of service limitation.* (i) For purposes of section 468A(b)(1) and paragraph (b)(2)(ii) of § 1.468A–2, decommissioning costs included in cost of service for any taxable year beginning before January 1, 1987, shall include decommissioning costs that can be accurately determined from information contained in the regulated books of account or other written records of the taxpayer.

(ii) For purposes of section 468A(b)(1) and paragraph (b)(2) of § 1.468A–2, the cost of service amount applicable to a nuclear decommissioning fund for the taxable year that includes July 18, 1984, is the amount determined under paragraph (b)(2) of § 1.468A–2 multiplied by a fraction, the numerator of which is the amount of nuclear decommissioning costs that is directly or indirectly charged to customers in such taxable year and that is included in the taxable income of the taxpayer for such taxable year and the denominator of which is the amount of nuclear decommissioning costs that is directly or indirectly charged to customers in such taxable year and that would have been included in the gross income of the taxpayer if such costs were taken into account by the taxpayer in the same manner as amounts charged for electric energy (see § 1.88–1). Under the preceding sentence, an amount of decommissioning costs is included in the taxable income of a taxpayer for the taxable year that includes July 18, 1984, if the amount is included in gross income for such taxable year and no deduction (other than a deduction allowed under section 468A(a) and paragraph (a) of § 1.468A–2) is claimed with respect to such amount for such taxable year.

(5) *Assumptions and determinations to be used in determining ruling amounts.* (i) To the extent consistent with the principles and provisions of § 1.468A–3, a ruling amount for any taxable year beginning before January 1, 1987, shall be based on the reasonable assumptions and determinations used by the applicable public utility commission(s) in establishing or approving the amount of decommissioning costs included in cost of service for ratemaking purposes for such taxable year.

(ii) If the applicable public utility commission(s) did not disclose the after-tax rate of return used in establishing or approving the amount of decommissioning costs included in cost of service for any period during a taxable year that ends on or after July 18, 1984, and begins before January 1, 1987, the after-tax rate of return during such period is equal to 54 percent of the overpayment rate in effect under section 6621 during such period.

(iii) If the applicable public utility commission(s) did not disclose the other assumptions and determinations used in establishing or approving the amount of decommissioning costs included in cost of service for any taxable year that ends on or after July 18, 1984, and begins before January 1, 1987, ruling amount for each such taxable year shall be determined by taking into account—

(A) The amount of decommissioning costs included in cost of service for such taxable year;

(B) The qualifying percentage (as determined under paragraph (d)(4) of § 1.468A–3 and paragraph (b)(7) of this section); and

(C) The amount of decommissioning costs included in cost of service for any earlier taxable year.

(6) *Exception to level funding limitation.* Notwithstanding paragraph (b) of § 1.468A–3, the Internal Revenue Service may, in its discretion, provide a schedule of ruling amounts specifying a ruling amount for a taxable year that ends on or after July 18, 1984, and begins January 1, 1987, that is greater than the ruling amount specified in such scedule for a later taxable year.

(7) *Determination of qualifying percentage.* (i)(A) The qualifying percentage shall be determined under this paragraph (b)(7)(i) if a nuclear power plant began commercial operations on or before July 10, 1986, and a taxpayer—

(1) Files a request for a schedule of ruling amounts for the nuclear decommissioning fund maintained with respect to such nuclear power plant on or before June 1, 1988; and

(2) Elects the application of this paragraph (b)(7)(i) in its request for a schedule of ruling amounts.

(B) If the qualifying percentage is determined under this paragraph (b)(7)(i), the estimated period for which the nuclear decommissioning fund is to be in effect for purposes of paragraph (d)(4)(ii) of § 1.468A–3 begins on the later of—

(1) The first day of the taxable year that includes the date that the nuclear power plant began commercial operations; or

(2) The first day of the taxable year that includes July 18, 1984.

(ii)(A) The qualifying percentage shall be determined under this paragraph (b)(7)(ii) if a nuclear power plant began commercial operations before July 18, 1984, and a taxpayer—

(1) Files a request for a schedule of ruling amounts for the nuclear

decommissioning fund maintained with respect to such nuclear power plant on or before June 1, 1988; and

(2) Elects the application of this paragraph (b)(7)(ii) in its request for a schedule of ruling amounts.

(B) If the qualifying percentage is determined under this paragraph (b)(7)(ii), the estimated period for which the nuclear decommissioning fund is to be in effect for purposes of paragraph (d)(4)(ii) of § 1.468A–3 and the estimated useful life of the nuclear power plant for purposes of paragraph (d)(4)(iii) of § 1.468A–3 shall end on the earlier of—

(1) The last day of the taxable year in which it is estimated that decommissioning will begin; or

(2) The last day of the taxable year that includes the expiration date of the Nuclear Regulatory Commission operating license as in effect on July 18, 1984, without regard to any extensions or amendments thereto.

(iii) In the case of a nuclear power plant that began commercial operations before July 18, 1984, and whose estimated useful life for ratemaking purposes was adjusted by a public utility commission before July 18, 1984, a taxpayer may elect in its request for a schedule of ruling amounts to compute the qualifying percentage in accordance with the following rules:

(A) If the taxpayer files a request for a schedule of ruling amounts for the nuclear decommissioning fund maintained with respect to such nuclear power plant on or before June 1, 1988, the qualifying percentage equals the percentage of original depreciation costs (determined without regard to capitalized decommissioning costs) with respect to the nuclear power plant that remains to be recovered for ratemaking purposes as of the first day of the taxable year that includes July 18, 1984.

(B) If a taxpayer does not file a request for a schedule of ruling amounts for the nuclear decommissioning fund maintained with respect to such nuclear power plant on or before June 1, 1988, the qualifying percentage equals the percentage of original depreciation costs (determined without regard to capitalized decommissioning costs) with respect to the nuclear power plant that remains to be recovered for ratemaking purposes as of the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund that relates to such nuclear power plant.

(C) For purposes of this paragraph (b)(7)(iii), original depreciation costs with respect to a nuclear power plant include only those costs that were taken into account in determining the amount of depreciation with respect to such plant in the first ratemaking proceeding in which such depreciation was treated as a cost of service.

(8) *Limitation on payments to a nuclear decommissioning fund*—(i) The limitation on payments to a nuclear decommissioning fund (see section 468A(b) and paragraph (b) of § 1.468A–2) for a taxable year that ends on or after July 18, 1984, and begin before January 1, 1987, shall be determined under paragraph (b)(8)(ii) of this section if—

(A) The electing taxpayer receives a ruling amount applicable to such taxable year after the deemed payment deadline date for such taxable year; and

(B) The requirements of paragraph (b)(8)(iii) of this section are satisfied.

(ii) If the limitation on payments to a nuclear decommissioning fund for a taxable year is determined under this paragraph (b)(8)(ii), the maximum amount of payments made (or deemed made) to the nuclear decommissioning fund during such taxable year shall not exceed the sum of—

(A) The amount determined under section 468A(b) and paragraph (b) of § 1.468A–2 (*i.e.*, the lesser of the cost of service amount or the ruling amount) after application of the transitional rules contained in paragraph (b)(4), (5), (6) and (7) of this section; and

(B) The amount of after-tax earnings that would have accumulated to the date of actual payment to the nuclear decommissioning fund if the amount described in paragraph (b)(8)(ii)(A) of this section had been contributed to the nuclear decommissioning fund on the deemed payment deadline date for such taxable year.

In determining the after-tax earnings that would have accumulated to the date of payment, an electing taxpayer must use the after-tax rate of return of the nuclear decommissioning fund that was used in determining the initial schedule of ruling amounts.

(iii) In order to compute the payment limitation under paragraph (b)(8)(ii) of this section for any taxable year, an electing taxpayer must—

(A) Indicate on the Election Statement for the taxable year that the amount of the deductible payment is greater than the amount determined under section 468A(b) and paragraph (b) of § 1.468A–2 because paragraph (b)(8) of § 1.468A–8 applies;

(B) Not have claimed a deduction for the taxable year under section 468A(a) or paragraph (a) of § 1.468A–2 on any return that is filed before the date that a ruling amount is received for the taxable year;

(C) Not have taken a deduction under section 468A (a) or paragraph (a) of § 1.468A–2 into account in determining the amount properly estimated as tax for the taxable year under section 6081 (b) (relating to the automatic extension for filing corporate income tax returns); and

(D) Not take the deduction allowed with respect to such payment into account in determining the amount of any overpayment of tax (within the meaning of section 6611) or underpayment of tax (within the meaning of section 6601) for the period ending on the date of such payment (see paragraph (b)(9) of this section).

(iv) The following example illustrates the application of the principles of paragraph (b)(8) of this section:

Example. X corporation is a calendar year, accrual method taxpayer engaged in the sale of electric energy generated by a nuclear power plant owned by X. On September 15, 1987, X receives a schedule of ruling amounts from the Internal Revenue Service that includes a ruling amount of $1,000,000 for the 1986 taxable year. For purposes of this example, assume that the cost of service amount applicable to the nuclear decommissioning fund for the 1986 taxable year is also $1,000,000 and that the after-tax rate of return of the nuclear decommissioning fund that was used in determining the schedule of ruling amounts is 10 percent compounded semi-annually. On September 15, 1987, X makes a contribution of $1,050,000 to a nuclear decommissioning fund established by X. Under paragraph (b)(8)(ii) of this section, this contribution does not exceed the limitation on payments for the 1986 taxable year and the entire amount of the contribution is deductible for such year. The additional $50,000 deductible payment that is allowed under this paragraph (b)(8) reflects the foregone earnings of the fund for the six-month period beginning on the deemed payment deadline date for the 1986 taxable year (March 15, 1987) and ending on the date of the contribution (September 15, 1987).

(9) *Denial of interest on overpayment.* If a deduction is allowed by reason of paragraph (b)(2) of this section for the amount of any payment made after the 15th day of the third calendar month after the close of the taxable year to which such payment relates, such deduction shall not be taken into account in determining the amount of any overpayment of tax (within the meaning of section 6611) or underpayment of tax (within the meaning of section 6601) for the period ending on the date of such payment.

(10) *Determination of addition to tax for failure to pay estimated tax.* In the case of any taxable year that ends on or after July 18, 1984, and begins before January 1, 1987, the tax shown on the return for such taxable year for purposes of section 6655(b) shall equal the tax that would be shown on the

return if a deduction were allowed for the lesser of—

(i) The amount of the payment made to the nuclear decommissioning fund for such taxable year; or

(ii) The amount determined under section 468A(b) and paragraph (b) of § 1.468A–2 (*i.e.*, the lesser of the cost of service amount or the ruling amount) after application of the transitional rules contained in paragraph (b)(4), (5), (6) and (7) of this section but without regard to the transitional rule contained in paragraph (b)(8) of this section.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 6. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 7. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.468A–3 * * * 1545–0954", "§ 1.468A–4 * * * 1545–0954", "§ 1.468A–7 * * * 1545–0954", "§ 1.468A–8 * * * 1545–0954".

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: February 24, 1988.

O. Donaldson Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 88–4445 Filed 2–29–88; 8:45 am]

BILLING CODE 4830–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1256

Statistical Research in Archival Records Containing Personal Information

AGENCY: National Archives and Records Administration.

ACTION: Final rule.

SUMMARY: This rule establishes procedures for granting access to persons doing biomedical research who wish to perform statistical or quantitative research using records in the National Archives of the United States that contain information of a highly personal nature.

EFFECTIVE DATE: March 3, 1988.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas or Nancy Allard at 202–523–3214 (FTS 523–3214).

SUPPLEMENTARY INFORMATION: On October 26, 1987, NARA issued a notice of proposed rulemaking (52 FR 39924) to establish procedures for persons doing biomedical statistical research to request permission to use records restricted only for reasons of personal privacy and for NARA to evaluate their requests. Two comments were received. A Federal agency asked that NARA clarify in the final rule that access would not be granted to records restricted under § 1256.16 (the NARA general restriction for personal privacy) if the records were also subject to a specific restriction imposed by the agency of origin in accordance with § 1256.40. The final rule includes this clarification.

The other comment, from a medical historian, recommended that the definition of biomedical research be expanded to include non-quantitative research such as case history study. We do not believe that this comment can be accommodated without completely vitiating the objective of the regulation. Researchers who wish to do case history studies or other non-quantitative research still may be able to gain access to "sanitized" copies of restricted records in accordance with § 1256.4(a)(2).

Under the Paperwork Reduction Act, OMB has assigned control number 3095–0002 to the information collection requirements contained in this rule. This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1256

Archives and records.

For the reasons set forth in the preamble, Chapter XII of Title 36, Code of Federal Regulations, is amended as follows:

PART 1256—[AMENDED]

1. The authority citation for Part 1256 continues to read as follows:

Authority: 44 U.S.C. 2108.

2. Section 1256.4 is added to read as follows:

§ 1256.4 Access to records containing personal information.

(a) *NARA policy.* Access to archival records containing information access to which would invade the privacy of an individual is restricted by § 1256.16.

(1) NARA may authorize access to such records for the purpose of statistical or quantitative research to qualified persons doing biomedical research under the conditions outlined in this section.

(2) If NARA is able to make a copy of such records with all personal identifiers masked or deleted, NARA will make such a "sanitized" copy of the record available to all researchers in accordance with Part 1254 of this chapter.

(3) NARA will not grant access to restricted census and survey records of the Bureau of the Census less than 72 years old containing data identifying individuals enumerated in population censuses in accordance with 44 U.S.C. 2108(b).

(4) NARA will not grant access contrary to a specific restriction to records which have specific restrictions on access imposed by the agency of origin in accordance with § 1256.40.

(b) *Request for access.* Researchers who wish to have access to records the use of which is restricted by § 1256.16 to conduct biomedical research must submit a written request to the Assistant Archivist for the National Archives (NN), National Archives and Records Administration, Washington, DC 20408. OMB control number 3095–0002 has been assigned to this collection of information requirement. Researchers are encouraged to consult informally NARA prior to submitting the formal request. The request must include the following information:

(1) Name and mailing address;

(2) Institutional affiliation and position, if applicable;

(3) List of published research;

(4) References from two persons who have first-hand knowledge of the requester's qualifications to perform the research;

(5) A statement of the nature of the research to be conducted and any plans for publication or presentation of the research findings;

(6) A listing of all sources of great funds supporting the research project or its publication;

(7) A statement of the methodology to be used;

(8) A statement of the administrative, technical, and physical safeguards to be employed by the researcher to prevent unauthorized use or disclosure of the records;

(9) A listing of the record groups and series titles to be used; and

(10) A statement that the researcher will abide by the conditions of access to be prescribed by NARA and that the researcher will assume responsibility for the action of all persons working with the researcher on the project.

(c) *Access Review Committee.* Requests made under paragraph (b) of this section will be reviewed by NARA's Access Review Committee, which is composed of the Deputy Archivist of the United States, the Assistant Archivist for the National Archives, and the

director(s) of the NARA division(s) which has custody of the requested records. The Committee may consult other persons within and outside the Federal Government who are knowledgeable in the research field for assistance in evaluating a request.

(1) The Committee will examine the request to determine:

(i) Whether the requested information is of such a highly sensitive personal nature that disclosure should not be permitted even for biomedical statistical or quantitative research;

(ii) Whether the methodology proposed by the requester will permit the researcher to obtain the projected research results without revealing personally identifying information;

(iii) Whether the research results will be published or presented at an academic or research conference;

(iv) Whether the requester is a *bona-fide* biomedical researcher who has previous experience in conducting statistical research projects and publishing articles or books on such research;

(v) Whether the safeguards proposed by the requester will adequately protect the personal information; and

(vi) Whether NARA has sufficient staff and space available to safeguard privacy interests necessary to accommodate the research project.

(2) The decision of the Committee will be made in writing to the requester within 15 workdays after receipt of a completed request. At the discretion of the Committee, the researcher may meet with the Committee to discuss the project or to discuss revising the research proposal to meet possible objections of the Committee.

(d) *Conditions of access.* Researchers who are granted access to restricted records, all others associated with the research project who will have access to personally identifiable information from the records, and the manager of any ADP facility handling the records or data elements containing personal identifiers shall agree in writing to maintain the confidentiality of the information and to adhere to the conditions of access imposed by NARA. NARA may impose some or all of the following conditions of access on any project; additional conditions may be imposed on the use of specific records or on specific projects:

(1) The records may be used only for the purpose of the statistical research and for the statistical reporting of research findings as described in the approved research project. The records may not be used for any other purpose without NARA approval;

(2) The records and copies of any data elements which permit the identification of an individual or which can be identified with an individual may not be transferred to any person or institution not directly involved with the approved research project;

(3) Reasonable administrative, technical, and physical safeguards, as approved by NARA, to prevent unauthorized use or disclosure of the records shall be established by the researcher and followed by all persons associated with the research project;

(4) When required by NARA, the records shall be consulted at the NARA facility where the records are located;

(5) Any individually identifiable information in the researcher's notes or in authorized copies of the records shall be rendered anonymous by the researcher at the earliest possible time consistent with the purpose of the research project;

(6) Persons who are identified in the records may not be contacted by or on behalf of the researcher;

(7) Prior to publication or public presentation of the data, the final research product(s) shall be provided to the Assistant Archivist for the National Archives for review. NARA's review shall be limited to ensuring that there is no possible identification of individuals in the research findings. NARA will not evaluate the validity of the research findings;

(8) All research notes containing personally identifiable information from privacy-restricted records and/or copies of such records shall, upon completion of the project, be destroyed or returned to NARA, whichever condition NARA has imposed as a condition of access. If the notes and/or copies are destroyed, the researcher shall verify in writing to the Assistant Archivist for the National Archives that the research notes and/or copies have been destroyed.

(e) *Noncompliance with conditions of access.* If NARA discovers that a researcher has violated any of the conditions of access imposed by NARA, NARA shall take steps to revoke the NARA research privileges of that person and shall consult with the NARA legal counsel to determine any other steps to be taken to prevent any further disclosure of the personal information concerned. NARA may also inform the following persons and organizations of the researcher's failure to follow the conditions of use:

(1) The institution with which the researcher is affiliated, if applicable;

(2) Persons who served as references in the application for access;

(3) Organizations which provided grant funds for the project;

(4) The sponsor of the publication or public presentation; and/or

(5) Appropriate professional organizations.

Dated: February 19, 1988.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 88-4657 Filed 3-2-88; 8:45 am]

BILLING CODE 7515-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3337-3]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Notice of delisting strategies and procedures.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is announcing strategies and procedures it intends to apply in reviewing existing and anticipated petitions submitted to the Agency under 40 CFR 260.20 and 260.22 to exclude certain wastes on a "generator-specific" basis from the hazardous waste lists in Subpart D of Part 261.

These strategies and procedures should improve the petition review process, help to eliminate the existing backlog of petitions, and reduce processing time. This notice outlines new strategies and reiterates several existing procedures.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information, contact Terry Grogan, Office of Solid Waste [WH-563], U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-4788.

SUPPLEMENTARY INFORMATION: Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to exclude (*i.e.*, delist) their wastes from the lists of hazardous wastes contained at 40 CFR 261.31 and 261.32. After reviewing the delisting process, the Agency has developed several strategies and procedures to facilitate reaching expeditious decisions on these petitions. This notice summarizes both existing and new delisting strategies and procedures, in particular:

(1) Dismissal of certain incomplete petitions.
(2) Petition review priorities.
(3) Agency assistance to petitioners prior to petition submission.
(4) Certification of data submitted in response to conditional exclusions.
(5) Use of analytical detection limits in petition evaluation.

I. Dismissal of Incomplete Petitions

Petitions for an exclusion from hazardous waste control must contain sufficient information to allow the Agency to determine that (1) the waste to be excluded is non-hazardous based upon the criteria for which it was listed, and (2) that no other factors (including additional constituents) could cause the waste to be hazardous. Acquisition and analysis of this information is necessary before a tentative determination (*i.e.*, a proposal to grant or deny a petition) can be made for the petitioned waste.

If adequate data are not received in a timely fashion, the Agency will remove these petitions from the review process. Such removal will help to conserve Agency resources for processing complete petitions by avoiding burdensome, iterative requests for needed information. Incomplete petitions include, but are not limited to, petitions: (1) That are seriously deficient upon receipt (*e.g.*, lack analytical results; or lack of appropriate information on quality assurance procedures used during sample analyses); (2) for which the petitioner does not provide complete, responsive information within 6 months of an Agency information request; and (3) that are the subject of a deferral request by the petitioner (*e.g.*, the petitioner plans to make a process change and asks that the petition be put on hold).

The Agency currently specifies that petitioners must respond to information request letters within 6 months. The Agency has previously denied petitions based on the failure to provide information within 12 months of making the initial information request. The Agency has reduced the 12-month denial period to 6 months, based upon historical analysis of petitions and responses. Six months should provide a reasonable period of time for petitioners to submit information responding to typical petition deficiencies, such as: Clarification of process descriptions; identification of chemical components in trade-name products used as raw materials or as treatment reagents; and resampling and analytical testing requests to assure that samples are representative. EPA expects that in most cases, the requested information can be submitted in much less than 6 months. If EPA anticipates that the requested information will take longer than 6 months, the petition will be considered seriously deficient, and dismissed at that point. Petitioners are encouraged to submit the requested information as soon as possible but in no event later than 6 months from the Agency's request.

In the past, when a petitioner did not respond to an information request, the Agency's procedure was to publish a proposed denial notice in the **Federal Register**. Because the administrative burdens of such rulemakings resulted in resource demands and in delays for those petitioners who have fully responded to EPA's information requests, the Agency now plans to dismiss incomplete petitions by letter. This procedure applies to petitions currently under review as well as to new ones.

The dismissal letter will be sent to the petitioner and to appropriate State and EPA regional contacts. The letter will explain the reason that the petition is being dismissed and will clearly state what information is needed to complete the petition. The effect of the dismissal is to remove the petition from the review system and to close the petition file. The petitioner may at any time re-submit a complete petition. The Agency will review newly submitted and re-submitted petitions in chronological order.

A. Seriously Deficient Petitions

Seriously deficient petitions include petitions that lack information that will take more than 6 months to collect, including those that will require significant resampling and analysis. Serious deficiencies also include lack of seasonal sampling data for processes that vary throughout the calendar year and omission of necessary quality assurance/quality control analytical data (*e.g.*, data on the use of standard additions and surrogate spiking) that allow verification of detected and nondetected constituents. Seriously deficient petitions will be dismissed immediately based on the Agency's determination that even given an additional six months, the petitioner will not be able to correct the data deficiencies.

EPA plans to publish a **Federal Register** notice regarding the use of ground-water monitoring information by the Delisting Program. This notice will describe ground-water data needs, use of the data in delisting decision-making, and the Agency's dismissal procedure where there is a lack of sufficient ground-water monitoring data from an adequate system.

B. Insufficient Responses

If a petitioner's initial submission is not considered seriously deficient upon receipt, but is still not complete, the Agency will generally make only one request for the petitioner to submit the needed data. Given the availability of an EPA guidance manual on preparing petitions [1] and of EPA staff to resolve questions and problems, the Agency believes that 6 months should provide more than sufficient time for petitioners to respond. (If the information can be prepared in less than 6 months, EPA will establish a shorter time period.) If a petitioner submits additional information in a timely fashion that does not fully respond to the Agency's request (*e.g.*, EPA requests Oily Waste EP toxicity test data for a waste containing greater than one percent oil and grease but receives Ep toxicity test data), and if conforming or missing information is not received before the 6-month period expires, the petition will be dismissed. The Agency will not notify petitioners that such unresponsive submissions are deficient prior to sending a dismissal letter. Of course, a petitioner may submit a new petition for the same waste that contains the complete information.

C. Requests for Deferral

In the past, some petitioners have requested that the review of a petition be deferred until such time as they collect additional information or until decisions are made on other petitions they may have submitted. The Agency does not believe that it is appropriate to keep such petitions in the petition review system. Therefore, EPA will dismiss such petitions and will encourage petitioners to resubmit their petitions when they are ready to provide complete information.

II. Delisting Petition Review Priorities

The ultimate goal of the Agency is to process each petition in a timely manner. The Agency intends to review petitions in chronological order of receipt. Under this procedure, a petition received in June 1987, for example, will have higher priority in the review process than a petition submitted in December 1987.

Nothwithstanding, the Agency will process petitions out of chronological order whenever the Agency determines that such action is necessary or

[1] Copies of "Petitions to Delist Hazardous Wastes—A Guidance Manual" are available from the National Technical Information Service (NTIS), Port Royal Road, Springfield, VA (703) 478-4650. Ask for Publication No. PB85194488.

appropriate. For example, the Agency may process petitions out of chronological order when a rulemaking or policy decision will allow several related petitions to be processed simultaneously. This occurred when the F006 listing was modified on December 2, 1986 (see 51 *FR* 43350), allowing a number of delisting petitions to be removed from consideration simultaneously due to regulatory changes. The Agency will also deviate from chronological order to process complete petitions submitted later than incomplete petitions that are awaiting the receipt of additional information.

The Agency considered using a programmatic as opposed to a chronological basis for determining review and processing priority of petitions. Primarily, consideration was given to providing priority review for delisting petitions for wastes associated with corrective action, even if such a petition was submitted at a later date than other petitions (*i.e.*, petitions for wastes not associated with corrective action). Such a general procedure was not adopted since it would not be equitable to those petitioners who submitted their petitions at an earlier date. The Agency may, however, on a case-by-case basis, revise its priorities to give early consideration to delisting petitions for wastes at facilities which are subject to RCRA corrective action under permits or orders, when the issuance of a delisting decision is integral to the timely completion of corrective action measures to be taken at the facility. Similarly, when the delisting decision is an integral part of other facility efforts to dispose of wastes and avoid adverse impacts to human health and the environment, the Agency may deviate from its procedure of reviewing petitions in chronological order.

III. Pre-Submittal Consultation

Prior to submitting a formal petition, petitioners are strongly encouraged to meet or to discuss with EPA staff the nature and extent of information that must be included in the petition, particularly to develop adequate sampling and analytical plans. This should assist petitioners in preparing a complete petition, and will help to assure petitioners of the adequacy of sampling and analytical data before they invest resources to develop those data. Petitioners should note, however, that draft sampling and analytical plans must be clearly identified as drafts and will be handled separately from formal petitions in the petition review process. (Plans should be sent to the same address as petitions.)

IV. Certification Requirements

For some exclusions that are granted, the petitioner is responsible for conducting sampling and analysis and reporting the results to EPA according to a schedule specified in the exclusion. To ensure that petitioners comply with conditions of exclusions, the Agency will require petitioners to provide the following signed certification statement with each data submittal. This statement will be proposed for each individual rulemaking concerning a conditional exclusion.

Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 USC § 1001 and 42 USC § 6928), I certify that the information contained in or accompanying this document is true, accurate and complete.

As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.

In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of wastes will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.

Name of Certifying Person

Title of Certifying Person

Date

V. Practical Quantitation Limits

Where appropriate, the Agency has evaluated the mobility of constituents of concern in a petitioned waste using the vertical and horizontal spread (VHS) model (see 50 *FR* 48896, November 27, 1985). The VHS model is used to calculate hypothetical compliance-point values for concentrations of constituents of concern, based on the waste volume, the extract concentrations (*e.g.*, from the EP or Oily Waste EP toxicity test or the Organic Leachate Model (OLM)), and reasonable worst-case parameters for dispersion of leachate by ground water in two dimensions. The compliance-point concentrations are then compared to the regulatory standard established for each constituent of concern.

The Agency is aware that the recommended or accepted extraction and analytical procedures (either as described in "Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods, U.S. EPA Office of Solid Waste and Emergency Response, Publication SW–846 or as accepted by EPA under 40 CFR 260.21) in some cases cannot achieve low enough quantitation limits for particular wastes to pass the VHS model analysis for some constituents when the quantitation limit is used as the input concentration. The Agency has determined that, if hazardous constituents in a waste are not quantifiable using appropriate analytical methods, the Agency will not usually consider the waste to be hazardous for those constituents. EPA has taken this position in a number of proposed exclusions (*e.g.*, see 51 FR 36235 and 36241, October 9, 1985; 52 *FR* 33439, September 3, 1987).

Appropriate practical quantitation limits (PQLs) will be determined on a case-by-case basis and will depend on the waste matrix and available procedures for extraction and analysis of specific constituents. The PQL is the lowest level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions. EPA is specifying the use of PQLs rather than minimum detection limits (MDLs) because PQLs provide a reasonable degree of certainty that true values, rather than false negatives or positives, are determined. The Agency has specified the use of PQLs, rather than MDLs, in proposed rules (*e.g.*, see 50 *FR* 46902, November 13, 1985), as well as in SW–846 methods 8240 and 8270 for the analysis of organic contaminants.

(42 U.S.C. 6921)

Date: February 24, 1988.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 88–4608 Filed 3–2–88; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 96

Block Grant Programs

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: This final rule implements two changes to the Department's regulations governing administration of the low-income home energy assistance

program (LIHEAP). First, the rule clarifies grantee use of the Federal Government's official poverty income guidelines in establishing income eligibility criteria for LIHEAP assistance. Second, the rule provides procedures to exempt grantees affected by a disaster or emergency from having to meet certain statutory requirements for providing energy crisis intervention assistance. In addition to these changes, the rule makes a technical correction regarding the due dates for reports on audits of HHS block grants.

EFFECTIVE DATE: April 4, 1988.

FOR FURTHER INFORMATION CONTACT: Bob Raymond, 202–245–7316. For questions relating to energy assistance: David J. Kirker, 202–245–2030.

SUPPLEMENTARY INFORMATION: The Low-Income Home Energy Assistance Act of 1981, title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), established the low-income home energy assistance program. On July 6, 1982, the Department issued final regulations for LIHEAP and the six other block grant programs administered by HHS (47 FR 29472).

On February 13, 1987, the Department published (52 FR 4624) an interim final rule amending the Department's block grant regulations. The rule was intended to clarify the application of section 2605(b)(2)(B) of the LIHEAP statute and implemented section 502 of the Human Services Reauthorization Act of 1986 (Pub. L. 99–425). Section 2605(b)(2)(B) sets standards for income eligibility for LIHEAP. Section 502 establishes performance standards for delivery of energy crisis intervention benefits and describes circumstances when these performance standards do not apply.

The interim final rule allowed a 60-day comment period. Based on the comments we received, we revised the rule and it is now being made final.

Contact Person for Low-Income Home Energy Assistance Program

The contact person for the low-income home energy assistance program is:

David J. Kirker, Director, Office of Community Services, 330 C Street SW., Room 2054, Washington, DC 20201; telephone: (202) 245–2030.

Section-by-Section Analysis of Changes in the Regulations

Subpart H—Low-Income Home Energy Assistance Program ("LIHEAP").

Section 96.85 Income Eligibility.

Section 2605(b)(2) of the Low-Income Home Energy Assistance Act sets maximum eligibility standards for the program. Subparagraph (A) establishes categorical eligibility, and subparagraph (B) establishes income eligibility. LIHEAP assistance may be provided only to households in which one or more individuals are receiving Aid to Families with Dependent Children (other than for foster care), Supplemental Security Income, food stamps, or certain need-tested veterans' and survivors' payments, or to households with incomes which do not exceed the greater of 150 percent of the poverty level for their State, or 60 percent of the State median income. Grantees may set more stringent standards for participation if they choose. However, the LIHEAP statute as amended by section 605(a) of the Human Services Reauthorization Act of 1984 (Pub. L. 98–558) provides that, in fiscal year 1986 and after, grantees may not set their income eligibility standard below 110 percent of the poverty level.

Each year in the **Federal Register**, the Department publishes official poverty income guidelines and State median income figures to be used as eligibility criteria for a number of Federal programs, including LIHEAP. Poverty income guidelines generally are published in February. Some grantees who use the poverty income guidelines to set their eligibility criteria have expressed concern that the LIHEAP statute could be interpreted as requiring them to change their criteria in the middle of their program year, upon publication of the updated guidelines. Within the same program year, this would establish eligibility for some households previously denied assistance on the basis of income, if the poverty income guideline figures increased, and end eligibility for some previously eligible households, if the figures decreased.

To address this situation, the interm final rule provided that, "In implementing the minimum income eligibility criteria in section 2605(b)(2) of the LIHEAP statute, grantees shall use the Federal Government's official poverty income guidelines that are in effect on October 1 of the fiscal year in which assistance is provided."

We received several comments expressing concern about this language. Comments from a State using 150 percent of the poverty level as its eligibility standard indicated that, although the interim final rule appears to apply only to grantees using 110 percent of the poverty level, the regulation is unclear in that regard. The State's practice has been to implement the revised poverty guidelines when they are published. The writer wanted assurance that the rule would not prohibit the State from continuing this practice. Several writers recommended that HHS allow grantees discretion to determine whether or not to implement the revised guidelines upon publication.

A comment from a State whose program year does not coincide with the Federal fiscal year mistakenly assumed that the interim final rule requires grantees to update the poverty income guidelines only on October 1—whether or not they use the minimum income eligibility standard of 110 percent of the poverty level. The writer requested that the rule be revised to provide grantees the flexibility to implement the updated guidelines consistent with their program needs and operations—in this case at the beginning of the State's fiscal year on July 1.

Another writer noted that his State has used the poverty income guidelines in effect on October 1 for its winter heating program and the updated guidelines published in February for its summer cooling program; the writer recommended that grantees be given the option of using the most current guidelines available at the start of each component of their LIHEAP programs.

These comments raise valid concerns. The language in the interim final rule is too restrictive. It prevents grantees from adopting during a fiscal year the revised minimum income eligibility figures (i.e., the updated figures for 110 percent of the poverty income guidelines), even though this may be consistent with efficient program administration and in the best interest of program recipients. The language is also subject to misinterpretation because it addresses only the minimum income eligibility standard.

Therefore, the final rule states that grantees whose income eligibility standard is based on the poverty income guidelines must use the most recently published poverty income guidelines from October 1 until revised guidelines are published. After revised poverty income guidelines are published (usually in February), grantees may adjust their income eligibility criteria (or guidelines) to accord with the revised poverty guidelines, *or* they may leave the existing criteria (or guidelines) in effect until the following October 1. They may adjust these figures at any time between publication of the revised poverty guidelines and the following October 1. (If a grantee adopts updated poverty income guidelines during the budget period or program year, it should amend its LIHEAP plan and make the amendment part of the public record.)

We have selected October 1 as the date by which an adjustment must be made, because that date precedes the

heating season and thus ensures that the majority of the benefits are provided according to the prevailing income guidelines. Also, October 1 is the start of the budget period for which LIHEAP funds are awarded, as well as the start of the program year used by most grantees. We believe that the revised rule provides necessary guidance while allowing grantees appropriate discretion in administering their programs.

Finally, there has been confusion over the numbering used in the interim final rule. The rule contains a § 96.89(a), under "Time limits for providing energy crisis assistance," and a § 96.89a, "Application of poverty income guidelines." We have moved the latter paragraph (as revised) to § 96.85, which previously only included instructions on adjusting annual median income for household size. The revised § 96.85, entitled "Income eligibility", includes paragraphs "(a) Application of poverty income guidelines" and "(b) Adjustment of annual median income for household size." The substance of the latter paragraph has not been changed; however, we have revised the wording slightly.

Section 96.89 Exemption From Standards for Providing Energy Crisis Intervention Assistance.

Section 502(a) of the Human Services Reauthorization Act of 1986 (Pub. L. 99–425) amends section 2604(c) of the Low-Income Home Energy Assistance Act by setting performance standards, effective December 1, 1986, for the delivery of energy crisis intervention benefits. The standards require grantees to provide assistance that will resolve the household's energy crisis within 48 hours of an eligible household's application for crisis intervention benefits. If the crisis is life-threatening, the assistance must be provided within 18 hours. Furthermore, administering agencies must accept applications for energy crisis benefits at sites that are geographically accessible to all households in the area they serve. Administering agencies must provide physically infirm individuals with the means to submit applications for benefits without leaving their residences, or with the means to travel to sites where the agencies accept applications.

Section 502(a) also provides that these standards shall not apply to a program in a geographic area affected by a natural disaster designated by the Secretary, or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974, if the Secretary determines that the disaster or emergency makes compliance with the standards impracticable.

Section 502(b) requires that the Department issue rules to carry out the amendments on energy crisis assistance in section 502(a). In response, the Department published the interim final rule of February 13, 1987, which provides procedures to exempt grantees from having to meet the time limits in section 502(a) for responding to requests for crisis assistance.

We received three letters addressing this provision. One comment requested that we define "life-threatening situation" and "accessible to all households" to include or emphasize the presence in the home of small children, infants, and elderly, disabled, or ill persons. Because primary responsibility for interpreting the block grant statutes rests with grantees and because we have no indication that a standard Federal definition is needed, we decline to define the terms. The Department will defer to a grantee's interpretation of the statutory provisions unless it is clearly erroneous.

One comment recommended that the waiver of the time limits not require prior approval of the Secretary. The writer proposed that "grantees experiencing a specified emergency or disaster may invoke the exemption by submitting the required information to the Secretary. The Secretary would then revoke the exemption if not justified." We have not made the requested change. The LIHEAP statute explicitly requires the Secretary, not a grantee, to determine whether the disaster or emergency makes compliance with the standards impracticable.

Another writer suggested that the regulation be modified to allow waivers to be retroactive to the date of the disaster or emergency. Under such a procedure, however, a grantee could act on the assumption that an exemption would be granted and disregard the standards. Later, the Secretary could deny the exemption on the grounds that the grantee's submission did not demonstrate that compliance with the standards was impracticable. As a result, the grantee would be in violation of the statute during the period that it disregarded the standards. This is not consistent with statutory intent.

We understand the importance of granting an exemption quickly. The regulation therefore provides that the grantee's initial communication and the Secretary's initial exemption may be oral. This will allow the Department to respond quickly (if the grantee's communication provides the necessary information for the Secretary's determination). We do not believe it is time-consuming or difficult for grantees to gather the required information—information substantiating the existence of a disaster or emergency and the impracticability of complying with the standards, information on the expected duration of the conditions making compliance impracticable, and, where appropriate, confirmation that the person making the request has been designated to do so by the chief executive officer. This is the minimum information necessary to enable the Secretary to make an informed judgment concerning an exemption.

While the interim final rule has been in effect, the Department has received one request for an exemption from the time limits. The grantee's initial request did not provide information on conditions caused by the disaster that made compliance with the standards impracticable, or information concerning designation by the chief executive officer of the person making the request. So that future requests will not overlook these (or other) requirements, we have clarified the information that is required. We have added no other requirements, however.

The interim final rule did not address exemption from the statutory requirement that local administering agencies accept applications for crisis assistance at geographically accessible sites and provide physically infirm persons with the means to submit applications for crisis assistance at their homes or the means to travel to sites where the agencies accept applications. The final rule provides that the procedures that apply to exemption from the time limits also apply to these requirements. We will assume that requests for exemption refer to these requirements as well as to the time limits, unless the request specifies otherwise.

Requests for exemption from the requirements should be made to the Director, Office of Community Services, 330 C Street SW., Room 2054, Washington, DC 20201; telephone: (202) 245–2030.

The requirements apply until the Department approves the findings submitted by the chief executive officer or the officer's designee. The grantee must continue to respond to applications for benefits in accordance with these requirements until the Department determines that compliance is impracticable. The exemption from the requirements is in effect from the time of the determination until a time specified by the Department.

Subpart C—Financial Management.

Section 96.31 Audits.

On October 13, 1987, the Department published a final rule amending Part 96. The rule established the due dates for audit reports conducted under the audit requirements set out in the block grant statutes (as opposed to those conducted under the requirements of the Single Audit Act, Pub. L. 98–502, 31 U.S.C. 75 *et seq.*). The date established in the final rule for fiscal periods beginning on or after January 1, 1985, was "within one year of the date of publication." That was in error. The rule has been revised to provide that audit reports for periods that began on or after January 1, 1985, and ended prior to January 1, 1988 are due by January 1, 1989. Reports for periods that end after January 1, 1988, are due one year from the end of the audit period. (Reports for periods that began before January 1, 1985, are due within one year of the date of publication of the final rule—i.e., October 13, 1988.)

As stated in § 96.31, these submission requirements for fiscal periods beginning on or after January 1, 1985, apply only to instances where a State, local government, or Indian tribe or tribal organization—that receives at least $25,000 and less than $100,000 in total Federal financial assistance from all sources—choose to conduct an audit under the requirements of the block grant statutes rather than the requirements of the Single Audit Act. The due dates for audit reports conducted in accordance with the Single Audit Act are determined by the regulations applying to that Act. These may be found in OMB Circular A–128, which is set out in 45 CFR Part 74, Appendix J.

Executive Order 12291

This rule provides clarifications that are minor or technical in nature. It does not involve substantial costs or other criteria specified in Executive Order 12291. Therefore, it is not a major rule under that order.

Paperwork Reduction Act

This rule contains no information collection requirements as defined by the Paperwork Reduction Act of 1980.

Regulatory Flexibility Act

The Department of Health and Human Services certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule affects State, territorial, and tribal administration of block grant funds by establishing due dates for audit reports and through minor reforms that clarify eligibility criteria and modify requirements for provision of low-income home energy assistance in disasters and emergencies.

(Catalog of Federal Domestic Assistance Program No. 13.789—Low Income Home Energy Assistance)

List of Subjects in 45 CFR Part 96

Energy, Grant programs—energy, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Part 96 of Title 45 of the Code of Federal Regulations is amended as follows:

PART 96—[AMENDED]

1. The authority citation for 45 CFR Part 96 continues to read as follows:

Authority: 42 U.S.C. 300w *et seq.*; 42 U.S.C. 300x *et seq.*; 42 U.S.C. 300y *et seq.*; 42 U.S.C. 701 *et seq.*; 42 U.S.C. 8621 *et seq.*; 42 U.S.C. 9901 *et seq.*; 42 U.S.C. 1397 *et seq.*; 31 U.S.C. 1243 note, 1976 Edition, Supplement V.

Subpart H—Low-Income Home Energy Assistance Program ("LIHEAP")

2. By revising § 96.85 to read as follows:

§ 96.85 Income eligibility.

(a) *Application of poverty income guidelines.* In implementing the income eligibility standards in section 2605(b)(2) of Pub. L 97–35 (42 U.S.C. 8624), grantees using the Federal Government's official poverty income guidelines as a basis for determining eligibility for assistance shall, by October 1 each year, adjust their income eligibility criteria so that they are in accord with the most recently published update of the guidelines. Grantees may adjust their income eligibility criteria to accord with the most recently published revision to the poverty income guidelines at any time between publication of the revision and the following October 1.

(b) *Adjustment of annual median income for household size.* In order to determine the State median income for households that have other than four individuals, grantees shall adjust the State median income figures (published annually by the Secretary), by the following percentages:

(1) One-person household, 52 percent;

(2) Two-person household, 68 percent;

(3) Three-person household, 84 percent;

(4) Four-person household, 100 percent;

(5) Five-person household, 116 percent;

(6) Six-person household, 132 percent; and

(7) For each additional household member above six persons, add three percentage points to the percentage adjustment for a six-person household.

3. By revising § 96.89 to read as follows:

§ 96.89 Exemption from standards for providing energy crisis intervention assistance.

The performance standards in section 2604(c) of Pub. L. 97–35 (42 U.S.C. 8623), as amended by section 502(a) of the Human Services Reauthorization Act of 1986 (Pub. L. 99–425)—concerning provision of energy crisis assistance within specified time limits, acceptance of applications for energy crisis benefits at geographically accessible sites, and provision to physically infirm low-income persons of the means to apply for energy crisis benefits at their residences or to travel to application sites—shall not apply under the conditions described in this section.

(a) These standards shall not apply to a program in a geographical area affected by (1) a major disaster or emergency designated by the President under the Disaster Relief Act of 1974, or (2) a natural disaster identified by the chief executive officer of a State, territory, or direct-grant Indian tribe or tribal organization, if the Secretary (or his or her designee) determines that the disaster or emergency makes compliance with the standards impracticable.

(b) The Secretary's determination will be made after communication by the chief executive officer (or his or her designee) to the Secretary (or his or her designee) of the following:

(1) Information substantiating the existence of a disaster or emergency;

(2) Information substantiating the impracticability of compliance with the standards, including a description of the specific conditions caused by the disaster or emergency which make compliance impracticable; and

(3) Information on the expected duration of the conditions that make compliance impracticable.

If the communication is made by the chief executive officer's designee and the Department does not have on file written evidence of the designation, the communication must also include:

(4) Evidence of the appropriate delegation of authority.

(c) The initial communication by the

chief executive officer may be oral or written. If oral, it must be followed as soon as possible by written communication confirming the information provided orally. The Secretary's exemption initially may be oral. If so, the Secretary will provide written confirmation of the exemption as soon as possible after receipt of appropriate written communication from the chief executive officer.

(d) Exemption from the standards shall apply from the moment of the Secretary's determination, only in the geographical area affected by the disaster or emergency, and only for so long as the Secretary determines that the disaster or emergency makes compliance with the standards impracticable.

§ 96.89a [Removed]

4. Section 96.89a is removed.

5. By revising paragraph (b)(2) of § 96.31 as follows:

Subpart C—Financial Management

§ 96.31 Audits.

* * * * *

(b) *Fiscal periods beginning on or after January 1, 1985.* * * *

(2) Each State, local government or Indian tribe or tribal organization that receives at least $25,000 and less than $100,000 in total Federal financial assistance from all sources must, at its option, audit block grant funds under either the Single Audit Act or the separate audit requirements set out in each respective block grant statute (or, in the case of the community services block grant, the requirements in 31 U.S.C. 7305). Any audit that is conducted under the block grant audit requirements must be conducted in accordance with standards that are consistent with the Comptroller General's standards for the audit of governmental organizations, programs, activities, and functions. Reports on the results of any such audit must be submitted to the Department by January 1, 1989, if the report is for an audit period that ended prior to January 1, 1988. Reports on the results of any such audit for an audit period that ends on January 1, 1988 or later must be submitted to the Department within one year of the end of the audit period.

* * * * *

Dated: February 10, 1988.

Otis R. Bowen,

Secretary.

[FR Doc. 88-4443 Filed 3-2-88; 8:45 am]

BILLING CODE 4150-04-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-58; RM-5408 and RM-5464]

Radio Broadcasting Services; New Albany and Oxford, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The *Notice of Proposed Rule Making* was issued in response to two separate petitions for rule making. Oxford Radio, Inc. proposed the substitution of FM Channel 294C2 for Channel 296A at Oxford, Mississippi, and modification of its license for Station WKLJ(FM) to specify operation on Channel 294C2. WTMX, Inc. requested the substitution of FM Channel 294C2 for Channel 296A at New Albany, Mississippi, and modification of its license for Station WTMX-FM, to reflect the higher class channel. Oxford and New Albany are located approximately 65 kilometers apart, and § 73.207 of the Rules require 190 kilometers between Class C2 co-channels. Therefore, the proposals are mutually exclusive.

After comparative evaluation of the communities to determine the largest population within the gain areas of the predicted Class C2 service contours, the Commission concluded that the New Albany proposal should prevail. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 28, 1988.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-58, adopted January 19, 1988, and released February 10, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Mississippi, by removing Channel 292A at New Albany and adding Channel 294C2.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-3651 Filed 3-2-88; 8:45 am]

BILLING CODE 6712-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Parts 701, 750, and 752

[AIDAR Notice 88-3]

Miscellaneous Amendments to Acquisition Regulations

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The A.I.D. Acquisition Regulation (AIDAR) is being amended to implement Federal Acquisition Circular (FAC) 84-33 (53 FR 3688, February 8, 1988) by specifying that the approving authority for unauthorized commitments under FAR 1.602-3 is the A.I.D. Procurement Executive; and by removing previous AIDAR coverage of unauthorized commitments and prompt payment from the AIDAR, since it has been superseded by the new coverage established by FAC 84-33.

EFFECTIVE DATE: February 22, 1988.

FOR FURTHER INFORMATION CONTACT: M/SER/PPE, Mr. James M. Kelly, Room 1600I, SA-14, Agency for International Development, Washington, DC 20523. Telephone (703) 875-1534.

SUPPLEMENTARY INFORMATION: The changes being made by this Notice are not considered significant rules subject to FAR 1.301 or Subpart 1.5. This Notice is exempted from the requirements of Executive Order 12291 by OMB Circular 85-7. This Notice will not have an impact on a substantial number of small entities, nor does it establish any information collection as contemplated by the Regulatory Flexibility Act and Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 701, 750, and 752

Government procurement.

For the reasons set out in the Preamble, Chapter 7 of Title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citations in Parts 701, 750, and 752 continue to read as follows:

Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979; 44 FR 56673, 3 CFR 1979 Comp., p. 435.

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

Subpart 701.6—Contracting Authority and Responsibility

2. A new section 701.602–3 is added as follows:

701.602–3 Ratification of unauthorized commitments.

(a) [Reserved]

(b) *Policy.* (1) [Reserved]

(2) In order to maintain management oversight and controls on unauthorized commitments, authority to ratify unauthorized commitments within A.I.D. is reserved to the A.I.D. Procurement Executive.

PART 750—EXTRAORDINARY CONTRACTUAL ACTIONS

Subpart 750.70—Ratification of Unauthorized Contract Awards [Removed and Reserved]

3. Subpart 750.50 is removed and reserved.

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 752.70—Texts of A.I.D. Contract Clauses

4. Section 752.7003, Documentation for payment, is revised as follows:

752.7003 Documentation for payment.

The following clause is required in all A.I.D.-direct cost-reimbursement contracts:

DOCUMENTATION FOR PAYMENT (APR 1984)

(a) Claims for reimbursement under this contract shall be submitted to the Paying Office indicated on the cover page of this contract. The authorized Certifying Officer of the Paying Office is the designated representative of the Contracting Officer, authorized to approve vouchers under this contract. The Contractor shall submit a Voucher Form SF–1034 (original) and SF–1034(a) in three copies. Each voucher shall be identified by the appropriate A.I.D. contract number, properly executed, in the amount of dollar expenditures made during the period covered. The voucher forms shall be supported by:

(1) Original and three copies of a certified fiscal report rendered by the Contractor in a form and manner satisfactory to A.I.D. substantially as follows:

TOTAL EXPENDITURES

Category	Budget amount	To date	This period (indicate dates)
Salaries and wages:			
Home office	$XXX	$XXX	$XXX
Field office	XXX	XXX	XXX
Indirect costs:			
Home office	XXX	XXX	XXX
Field office	XXX	XXX	XXX
Consultant fees	XXX	XXX	XXX
Allowances	XXX	XXX	XXX
Travel and transportation	XXX	XXX	XXX
Expendable equipment and materials	XXX	XXX	XXX
Non-expendable property	XXX	XXX	XXX
Participant costs	XXX	XXX	XXX
Other direct costs	XXX	XXX	XXX
Grand total	$XXX	$XXX	$XXX

(2) The fiscal report shall include a certification; signed by an authorized representative of the Contractor, as follows:

The undersigned hereby certifies that (i) the fiscal report and any attachments have been prepared from the books and records of the Contractor in accordance with the terms of this contract, and to the best of my knowledge and belief, that they are correct, that the sum claimed under this Contract is proper and due, that all the costs of contract performance (except as herewith report in writing) have been paid or will be paid currently by the Contractor when due in the ordinary course of business, that the work reflected by the costs above has been performed, that the quantities and amounts involved are consistent with the requirements of this Contract, that all required Contracting Officer approvals have been obtained, and (ii) appropriate refund to A.I.D. will be made promptly upon request in the event of disallowance of costs not reimbursable under the terms of this Contract.

By: _____

Title: _____

Date: _____

(3) Unless otherwise provided in this contract, the Contractor shall submit a vendor's invoice detailing the quantity, description, and price for each individual item purchased, as follows:

(i) Expendable equipment, supplies, or commodities—for transactions totaling more than $2,500.

(ii) Non-expendable property—for every purchase. Non-expendable property is property which is complete in itself, does not lose its identity or become a component part of another article when put into use; is durable, with an expected service life of two years or more; and which has be a unit cost of more than $500.

(iii) The bill of lading or airway bill as evidence of shipment by U.S.-flag carrier.

(b) *Local currency payment.* The Contractor is fully responsible for the proper expenditure and control of local currency, if any, provided under this contract. Local currency will be provided to the Contractor in accordance with written instructions provided by the Mission Director. The written instructions will also include accounting, vouchering, and reporting procedures. A copy of the instructions shall be provided to the Contractor's Chief of Party and to the Contracting Officer. The costs of bonding personnel responsible for local currency are reimbursable under this contract.

(c) Upon compliance by the Contractor with all the provisions of this contract, acceptance by the Government of the work and final report, and a satisfactory accounting by the Contractor of all Government-owned property for which the Contractor had custodial responsiblity, the Government shall promptly pay to the Contractor any moneys (dollars or local currency) due under the completion voucher. The Government will make suitable reduction for any disallowance or indebtedness by the Contractor by applying the proceeds of the voucher first to such deductions and next to any unliquidated balance of advance remaining under this contract.

(d) The Contractor agrees that all approvals of the Mission Director and the Contracting Officer which are required by the provisions of this contract shall be preserved and made available as part of the Contractor's records which are required to be presented and made available by the clauses of this contract entitled "Examination of Records by Comptroller General" and "Audit".

Date: February 25, 1988.

John F. Owens,

Procurement Executive.

[FR Doc. 88–4559 Filed 3–2–88; 8:45 am]

BILLING CODE 6116–01–M

Proposed Rules

Federal Register
Vol. 53, No. 42
Thursday, March 3, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-88-3]

Petitions for Rulemaking; Receipt and Disposition

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: May 2, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ____ 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on February 23, 1988.

Denise D. Hall,

Acting Manager, Program Management Staff.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Regulations affected	Description of petition
25523	National Air Transportation Association	14 CFR Parts 25, 29, and 121	To institute rulemaking in the form of an Advance Notice of Proposed Rulemaking to consider the impact of Amendments 25-59, 29-23, and 121-184 to the FAR. The petition also requests that the FAA stay the effective date of compliance of Special Federal Aviation Regulation No. 52 until such rulemaking is initiated.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Regulations affected	Description of relief sought, disposition
25925	Louis D. Neill	14 CFR § 135.247(a)(2)	Amendment to extend the time period in which a pilot in command may operate aircraft to qualify for recent experience. Petitioner proposed to allow the period beginning at the end of evening civil twilight and ending at the beginning of morning civil twilight be considered as night operations. Denied 1/14/88

[FR Doc. 88-4551 Filed 3-2-88; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-ASW-45]

Proposed Revision of Transition Area; Leeville, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area located at Leeville, LA. The abandonment and closure of the Caillou Island Seaplane Base and the subsequent cancellation of the standard instrument approach procedure (SIAP) that was serving the seaplane base have made this proposed revision necessary. The intended effect of this proposed revision is to return that controlled airspace no longer required for aircraft executing the SIAP to the abandoned/closed seaplane base.

DATE: Comments must be received on or before March 31, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 87-ASW-45, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation

Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530; telephone: (817) 624-5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ASW-45." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Leeville, LA. The abandonment and closure of the Caillou Island Seaplane Base and the subsequent cancellation of the associated SIAP have necessitated this proposed revision. The intended effect of this proposed revision is to return that controlled airspace no longer required for aircraft executing the SIAP to the abandoned seaplane base. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Leeville, LA [Revised]

That airspace extending upward from 700 feet above the surface within 3.5 miles each side of the Leeville VORTAC (latitude 29°10'30" N., longitude 90°06'14" W.), 275° radial extending from the VORTAC to 14 miles west of the VORTAC.

Issued in Fort Worth, TX, on February 12, 1988.

C. Roger Wall,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 88-4552 Filed 3-2-88; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 88-ACE-02]

Proposed Designation of Transition Area, Fairmont, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to designate a 700-foot transition area at Fairmont, Nebraska, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Fairmont State Airfield, Fairmont, Nebraska, utilizing the Fairmont Nondirectional Radio Beacon (NDB) as a navigation aid. This proposed action will change the airport status from VFR to IFR.

DATES: Comments must be received on or before April 14, 1988.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri, 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Traffic Management and Airspace Branch, Air Traffic Division, Federal

Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 132th Street, Kansas City, Missouri 64106, or by calling (816) 374–3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMS should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

Discussion

The FAA is considering an amendment to Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181), by designating a 700-foot transition area at Fairmont, Nebraska. To enhance airport usage, a new instrument approach procedure is being developed for the Fairmont State Airfield, Fairmont, Nebraska, utilizing the Fairmont NDB as a navigational aid. This navigational aid will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigation aid, entails designation of a transition area at Fairmont, Nebraska, at and above 700 feet ground level within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and enroute environment. The intended effect of this action is to ensure segregation of aircraft, using the approach procedure under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR). This action will change the airport status from VFR to IFR.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6D, dated January 4, 1988.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Fairmont, Nebraska [New]

That airspace extending upward from 700 feet above the surface within a five (5) mile radius of the Fairmont NE, State Airfield (Lat. 40°35'08"N, Long. 97°34'10"W); within three (3) miles each side of the 187° bearing of the Fairmont, NE NDB (Lat. 40°35'23"N, Long. 97°34'04"W) extending from the five (5) mile radius to 8.5 miles south of the NDB.

Issued in Kansas City, Missouri on February 12, 1988.

James Snow,

Acting Assistant Manager, Air Traffic Division.

[FR Doc. 88–4548 Filed 3–2–88; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 87–ASW–38]

Proposed Revision of Transition Area; Jacksonville, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area located at Jacksonville, TX. A review of the existing transition area revealed that the northwest arrival extension to the Cherokee County Airport, Jacksonville, TX, is not properly aligned for the standard instrument approach procedures (SIAP) serving the airport, thus making this proposed revision necessary. The intended effect of this proposed revision is to realign the northwest arrival extension of the existing transition area. There will be no reduction of controlled airspace for aircraft executing the current SIAP's to the airport. The airport status of instrument flight rules (IFR) will remain unchanged.

DATES: Comments must be received on or before March 31, 1988.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 87–ASW–38, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530; telephone: (817) 624–5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–ASW–38." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal

contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76139-0530. Communications must identify the notice number of this NPRM. Persons interested in being place on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Section 71.181 of the Federal Aviation Regulations (14 CFR Part 71) by revising the transition area located at Jacksonville, TX. A review of the existing transition area revealed that the current northwest arrival extension to the Cherokee County Airport is not properly aligned for the SIAP's now serving the airport, thus necessitating this proposed revision. The intended effect of this proposed revision is to realign the northwest arrival extension of the existing transition area. There will be no reduction of controlled airspace for aircraft executing the SIAP's to the airport. The status of the airport will remain IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Jacksonville, TX [Revised]

That airspace extending upward from 700-feet above the surface within a 6.5-mile radius of the Cherokee County Airport (latitude 31°52'09"N., longitude 95°13'02"W.) and within 4 miles each side of the 307° bearing of the Cherokee County NBD (latitude 31°52'12"N., longitude 95°12'55"W.), extending from the 6.5-mile radius to 11 miles northwest of the Cherokee County Airport.

Issued in Fort Worth, TX on February 12, 1988

C. Roger Wall,

Acting Manager, Air Traffic Division Southwest Region.

[FR Doc. 88-4553 Filed 3-2-88; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Cigarette Lighters; Advance Notice of Proposed Rulemaking and Request for Comments and Information

AGENCY: Consumer Product Safety Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: On the basis of currently available information, the Commission has preliminarily determined that unreasonable risks of death and injury may be associated with cigarette lighters operated by children, and that those risks may be sufficiently severe to warrant issuance of a rule to eliminate or reduce them. Cigarette lighters are flame-producing devices used by consumers primarily to light cigarettes, cigars, and pipes. The Commission estimates that during the years 1980 through 1985, on average 120 persons have died and 750 persons have been injured each year in fires started by children playing with lighters.

The Commission has initiated this rulemaking proceeding in response to a petition (PP 85-2) which requested issuance of requirements to make disposable lighters child-resistant. The Commission granted the petition, but decided to expand the scope of the requested proceeding to include all types of lighters.

This advance notice of proposed rulemaking begins a rulemaking proceeding under the authority of the Consumer Product Safety Act, the Federal Hazardous Substances Act, and the Poison Prevention Packaging Act. This proceeding could result in issuance of a rule to establish performance requirements for cigarette lighters to make them resistant to operation by children, requirements for labeling of cigarette lighters, or both. Additionally, the Commission is considering the possibility that the existing voluntary standard might be modified or a new one developed to address the risks of injury associated with cigarette lighters described in this notice.

The Commission solicits written comments from all interested persons on the risks of injury, regulatory alternatives discussed in this notice, and other possible means to address those risks of injury. Additionally, the Commission invites all interested persons to submit an existing standard or a statement of intent to modify or develop a voluntary standard to address those risks of injury.

DATE: Written comments and submissions in response to this notice must be received by the Commission by May 2, 1988, to be considered in this proceeding.

ADDRESS: Comments should be mailed, preferably in five (5) copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492-6800, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 528, 5401 Westbard Avenue, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: L. James Sharman, Fire Programs Officer, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6554.

SUPPLEMENTARY INFORMATION:

A. Background

On May 3, 1985, the Commission received a petition from Diane L. Denton, R.N., requesting the Commission to begin a rulemaking

proceeding to establish requirements applicable to disposable lighters to make those products child-resistant.

The petition asserted that disposable lighters are attractive to young children; are small enough to be held by children two to four years old; and have been used by children to start fires which have resulted in serious burn injuries.

The petition requested the Commission to issue a rule applicable to disposable lighters which would require more applied pressure to activate those lighters, or a multiple-step method for lighting them similar to the procedure required to open some child-resistant packaging.

In support of her request for rulemaking, the petitioner cited information about burn injuries which were reported to have resulted from fires started by children playing with disposable lighters and which were treated by the Kosair Children's Hospital of Louisville, Kentucky, and by the Shriners Burn Institute of Cincinnati, Ohio. The petitioner has also submitted information about fires started by young children using disposable lighters which were investigated by fire departments or reported by newspapers or magazines.

Information available to the Commission at the time it received the petition indicated that residential fires started by children playing with all types of cigarette lighters claimed the lives of at least 100 young children each year. (Current estimates of the number of deaths and injuries resulting from fires started by children with lighters are discussed below under the heading "Risks of Injury.") Information available in 1985 indicated that children younger than five years old were the principal victims of fires set by child play, but did not establish if children younger than five were also the principal operators of the lighters involved in those fires. Additionally, injury information available in 1985 was not adequate to determine what action, if any, the Commission could take to reduce deaths and injuries resulting from fires started by children using cigarette lighters.

With the assistance of local fire departments throughout the United States, the Commission conducted an extensive study of fire incidents resulting from children's use of cigarette lighters during 1986 and 1987. When a fire department encountered a fire involving a child and a lighter, the Commission was informed and an investigation was conducted. The purpose of this study was to obtain additional information about the manner in which children use lighters, the types of lighters used by children to start fires, and the ages of the children who start fires with lighters.

As part of this study, members of the Commission's field staff investigated 277 fire incidents involving children playing with cigarette lighters. On-site investigations were conducted when all three of the following conditions were present: (1) The child involved was younger than six years old; (2) the child or his or her parents could be interviewed; and (3) the lighter was available for inspection or the kind of lighter involved could be definitely identified. If these conditions were not present, the field staff generally conducted an abbreviated investigation to ascertain the age of the child involved, the accident scenario, and the kind of lighter involved. No attempt was made to limit the study to any specific type of lighters. A total of 86 on-site and 191 abbreviated investigations were conducted.

Analysis of the 277 investigations of fires started by children with lighters disclosed that:

- Disposable butane lighters were involved in 96 per cent of the fires in which the type of lighter could be determined; refillable butane lighters were involved in three percent of those fires; refillable lighters which used petroleum distillate fuel were involved in less than one per cent of those fires.
- In about 90 per cent of the incidents, the children who operated the lighters were younger than six years old; most were three or four years old.
- Boys outnumbered girls as the operator of the lighter by a ratio of four to one.
- In 63 per cent of the incidents in which the method of operation was identified, the child operated the lighter using two hands; one hand was used to steady the lighter, and the thumb or index finger of the other hand was used to manipulate the ignition mechanism of the lighter.
- 66 per cent of the persons who died and 74 per cent of the persons who were injured in these fires were not the individuals who started the fires.
- Many of the children involved in the incidents had previously played with or operated lighters.

In the course of the 277 investigations, the Commission collected 69 lighters for laboratory testing. Ten of these lighters were not operable because they were damaged in fires; two were returned to their owners before testing began.

Examination and testing of the lighters disclosed that 57 of the lighters had a flint. These lighters were tested to determine the force required to generate a spark or flame. The forces ranged from 1 to 4.5 pounds. No significant differences were found among the brands tested.

Forty-five of the lighters contained fuel. The staff measured the height of the flame produced by these lighters. Flame heights ranged from one-half inch to four inches.

None of the lighters tested showed any evidence of malfunction.

After completion of the study of fire incidents resulting from children playing with lighters and the testing of lighters involved in those incidents, the Commission staff prepared briefing materials for consideration by the Commission when deciding whether to grant or deny the petition.

The briefing materials included estimates of deaths and injuries in residential fires which resulted from children playing with lighters during the years 1980 through 1985; an analysis of 277 investigations of fires which resulted from children playing with lighters; results of testing and examination of 57 of the lighters involved in those fires; information about the different types of lighters and the numbers of such lighters distributed in the United States; and information about a voluntary standard applicable to lighters published by the American Society for Testing and Materials designated ASTM F400–85.

After consideration of the petition and information supporting the request for rulemaking provided by the petitioner, the briefing materials and an oral briefing by the Commission staff, and other information, the Commission voted on December 31, 1987, to grant the petition. The Commission also decided to expand the scope of the requested proceeding to include all types of cigarette lighters.

By publication of this advance notice of proposed rulemaking (ANPR), the Commission begins a rulemaking proceeding to establish requirements applicable to all types of cigarette lighters to make those products resistant to operation by children. This proceeding is authorized by the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051 *et seq.*); the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261 *et seq.*); and the Poison Prevention Packaging Act (15 U.S.C. 1471 *et seq.*).

B. Statutory Authority

Cigarette lighters are "consumer products" as that term is defined by section 3(a)(1) of the CSPA (15 U.S.C. 2052(a)(3)) because they are articles which are produced or distributed for sale to or for personal use by consumers in or around a household or residence,

in recreation, or in other similar places and activities.

Section 7 of the CPSA (15 U.S.C. 2056) authorizes the Commission to issue a consumer product safety standard consisting of performance requirements applicable to a consumer product or requirements that a consumer product must be marked with or accompanied by warnings or instructions. Any requirement of a consumer product safety standard must be "reasonably necessary to prevent or reduce an unreasonable risk of injury" associated with the product. Additionally, section 8 of the CPSA (15 U.S.C. 2057) authorizes the Commission to issue a rule declaring a consumer product to be a banned hazardous product if the Commission finds that a consumer product presents an unreasonable risk of injury and that no feasible consumer product safety standard which could be issued under the CPSA would adequately protect the public from that unreasonable risk of injury.

Section 9 of the CPSA (15 U.S.C. 2058) prescribes the procedure for issuance of a consumer product standard or a banning rule. The first step in such a proceeding is publication of an ANPR. If, after consideration of comments received in response to the ANPR, the Commission decides to continue the proceeding, section 9 of the CPSA requires publication of a proposed standard or banning rule; solicitation of written comments and oral presentations on the proposal; and publication of a final standard or banning rule.

Section 2(p) of the FHSA (15 U.S.C. 1261(p)) prescribes labeling requirements for household products containing substances which are hazardous because they are flammable, generate pressure, or present other specified risks of injury or illness. Lighters which contain fuel when sold to consumers are subject to the labeling requirements of section 2(p) of the FHSA. Lighters sold with petroleum distillate fuels are household products containing a flammable hazardous substance. Lighters sold with butane fuel are household products and the butane fuel is extremely flammable and under pressure.

Section 3(b) of the FHSA (15 U.S.C. 1262(b)) authorizes the Commission to issue rules prescribing specific labeling requirements for household products containing or consisting of hazardous substances if the Commission determines that the labeling specified in section 2(p) is not adequate to protect the public health and safety in view of the special hazard presented by the product. Lighters which contain petroleum distillate fuels when sold to consumers are subject to special labeling requirements issued under provisions of section 3(b) of the FHSA and codified at 16 CFR §§ 1500.14 (a)(3) and (b)(3).

Section 3(c) of the FHSA (15 U.S.C. 1261(c)) authorizes the Commission to issue rules exempting household products containing or consisting of hazardous substances from FHSA labeling requirements if the Commission determines that compliance with those requirements is not necessary to protect the public health and safety because of the small size of the package or the minor nature of the hazard presented by the product.

A rule issued under provisions of section 3(c) of the FHSA and codified at 16 CFR 1500.83(a)(20) exempts lighters containing petroleum distillate fuels from the labeling which would be required by section 2(p) of the FHSA and the regulation codified at 16 CFR 1500.14 (a)(3) and (b)(3), if the lighters contain not more than 10 cubic centimeters of fuel at the time of sale, and the fuel is in a sealed compartment which cannot be opened without the deliberate removal of a flush-set, screw-type refill plug.

Another rule codified at 16 CFR 1500.83(a)(29) exempts butane lighters from the labeling which would be required by section 2(p) of the FHSA if those lighters contain no more than 12 grams of fuel at the time of sale and their fuel reservoirs can withstand a specified pressure.

Section 2(q)(1)(B) of the FHSA (15 U.S.C. 1261(q)(1)(B)) authorizes the Commission to issue a rule banning any household product subject to provisions of the FHSA if the Commission determines that, notwithstanding any labeling which is or could be required by the FHSA, the degree or nature of the hazard is so great that protection of the public health and safety can be adequately served only by keeping the product out of channels of interstate commerce.

Finally, sections 3 and 5 of the PPPA (15 U.S.C. 1472 and 1474) authorize the Commission to issue a rule to require packaging that is significantly difficult for children younger than five years old to open for any "household substance" which is a "hazardous substance" as that term is defined in the FHSA, if the Commission determines that such packaging is required to protect children from serious personal injury or illness from handling, using, or ingesting that substance.

As noted above, both petroleum distillate and butane lighter fuels are "hazardous substances" subject to the FHSA. A lighter which contains fuel when sold to consumers is a "package" for purposes of the PPPA because it serves as the "immediate container" of a household substance when that substance is used by individuals in the household. See section 2(3) of the PPPA (15 U.S.C. 1471(3)).

C. The Product

Cigarette lighters are flame-producing devices used by consumers primarily to light cigarettes, cigars, and pipes. However, the term "cigarette lighter" as used in this notice does not include any type of match.

More than 500 million lighters are sold each year in the United States. Disposable butane lighters account for 95 per cent of all lighters sold.

The major components of a disposable butane lighter are: (1) a non-refillable reservoir which holds a small quantity of liquid butane under pressure; (2) a valve to control release of butane in a gaseous state; and (3) a mechanism to ignite the butane gas. Some disposable butane lighters have an additional control which allows the user to adjust the flame height.

Most disposable butane lighters have a fuel supply which will produce 1,000 to 2,000 ignitions. Currently available information indicates that 15 to 20 per cent of the disposable butane lighters sold in the United States are smaller size models with a reduced fuel supply. These smaller units will produce about 500 to 1,000 ignitions.

Most disposable butane lighters utilize a flint and thumb-activated roller mechanism to produce ignition. About 5 per cent of the products have an electric ignition mechanism. Generally, the models with electric ignition are more expensive than those with the flint and roller mechanism.

The retail price for disposable butane lighters ranges from 50 cents to five dollars; the average retail price for the product is less than one dollar.

Approximately five per cent of all lighters sold in the United States have a fuel reservoir that can be refilled. Some refillable lighters use petroleum distillate fuel; others use butane. Most refillable lighters utilize a flint and roller ignition mechanism; however, some refillable butane models have an electric ignition mechanism. The retail price for refillable lighters ranges from about $7 to $110. The typical retail price of a refillable lighter is between $30 and $40.

Specialty or novelty lighters are refillable lighters which have the appearance of some other object, such as a model car or miniature camera. Specialty lighters constitute only a

fraction of one per cent of all lighter sales, and range in price at retail from about $7 to over $50.

D. The Risks of Injury

The risks of injury associated with cigarette lighters to be addressed by this proceeding are risks of death and injury from fires started by children playing with lighters.

Using fire incident data and reports obtained from the U.S. Fire Administration and the National Fire Protection Association, the Commission staff has computed national fire loss estimates for the years 1980 through 1985. During these six years, the Commission estimates that an average of about 5,000 persons (not including fire fighters) died each year in all residential fires.

Children younger than five years old die in fires at a rate that is twice the rate for the population as a whole. One-third of the fire deaths of children younger than five years old are the result of children playing, usually with cigarette lighters or matches.

Of the total fatalities from residential fires, on average 170 persons each year are estimated to have died in all fires started with lighters. Residential fires started by children playing with lighters are estimated to have taken an average of 120 lives each year. These victims are estimated to include a yearly average of 90 children younger than five years old; 20 children from five to 14 years old; and 10 persons more than 14 years old.

The Commission estimates that during the years 1980 through 1985, on average at least 750 persons were injured each year in residential fires started by children playing with lighters. These victims are estimated to include a yearly average of 180 children younger than five years old; 100 children five to 14 years old; and 470 persons more than 14 years old. The Commission estimates the annual cost of childplay lighter fires to be $300–375 million or 60–75 cents per lighter sold.

As noted above, during 1985 and 1986, the Commission investigated 277 fires started by children using lighters. In 221 of the incidents investigated, the type of lighter involved could be determined. Disposable butane lighters were involved in 213 incidents, or 96 per cent of the fires in which the type of lighter was known. Refillable butane lighters were involved in 7 incidents, or three per cent of the fires in which the type of lighter was known. One refillable lighter which used petroleum distillate fuel was involved in a fire investigated during this study, amounting to less than one per cent of the incidents in which the type of lighter was known.

Seventy persons died and 127 were injured in the 277 fires investigated by the Commission. Forty-six of the 70 persons who died and 94 of the 127 persons injured in these fires were not the child who had operated the lighter. Of the 127 persons injured in these fires, 33 were hospitalized, 71 were treated at a hospital and released, and 23 were not taken to a hospital.

The petition which requested the Commission to begin this proceeding was accompanied by information concerning 24 individuals who were injured in fires started by children playing with disposable lighters. These individuals were reported to have suffered burns covering from 2 to 63 per cent of the total body surface area.

E. Voluntary Standard

The Commission is aware of only one voluntary standard applicable to lighters. That standard is published by the American Society for Testing and Materials and is designated ASTM F400–85.

This voluntary standard is applicable to all lighters, including those which can be refilled and those which use fuels other than butane.

The voluntary standard includes requirements for flame height, flame extinction, structural integrity, and instructions and warnings. Among the provisions of this standard is a requirement that the statement "Keep out of reach of children" must be on the lighter, on a separate brochure or pamphlet accompanying the lighter, or on the package containing the lighter.

This standard has no performance or design requirements intended to prevent operation of the lighter by a child, and no specific test to measure the resistance of the lighter to operation by a child.

Almost all lighters distributed in the United States at this time are manufactured to conform with the voluntary standard.

F. Regulatory Alternatives Under Consideration

The Commission began this proceeding after granting a petition which requested issuance of a rule to establish requirements to make disposable lighters child-resistant. The petition suggests that the rule should establish performance requirements for disposable lighters to make them resistant to operation by children either by prescribing a specified level of applied force or a multiple-step procedure to operate such lighters.

The Commission is considering establishment of performance requirements for all lighters. These requirements could be the ones suggested by the petition or other performance requirements which would address risks of death or injury resulting from children playing with lighters.

Sections 7 and 9 of the CPSA (15 U.S.C. 2056 and 2058) authorize the Commission to issue a consumer product safety standard consisting of performance requirements for cigarette lighters.

Section 2(q)(1)(B) of the FHSA (15 U.S.C. 1261(q)(1)(B) authorizes the Commission to issue a rule banning a household product containing or consisting of a hazardous substance if the Commission finds that no labeling which is or could be required under the FHSA is adequate to protect the public health and safety. A banning rule issued under 2(q)(1)(B) of the FHSA could take the form of a conditional ban: that is, a rule which bans any lighter which does not meet performance requirements specified in the rule.

The Commission could also issue a rule to establish performance requirements to make lighters "significantly difficult for children under five years of age" to operate in accordance with provisions of section 3 and 5 of the PPPA (15 U.S.C. 1472 and 1474).

The Commission is also considering the possibility that risks of death and injury from fires started by children using lighters might be reduced by informing adults about the need to keep these products out of the hands of children. One way to inform adults about this need is by labeling the product.

Sections 7 and 9 of the CPSA authorize issuance of a consumer product safety standard consisting of requirements that lighters must be marked with warnings or instructions.

The Commission could also require labeling of cigarette lighters under authority contained in the FHSA, either by revoking the rules which exempt lighters from labeling otherwise required by the FHSA, or by issuing a rule to require labeling of those products in accordance with provisions of section 3(b) of the FHSA (15 U.S.C 1262(b)).

The Commission is also considering the possibility that the voluntary standard for lighters, ASTM F400–85, could be revised to include performance requirements to make lighters resistant to operation by children, or marked with additional or revised warnings or instructions to keep these products out of the hands of children

G. Solicitation of Information and Comments

This advance notice of proposed rulemaking is the first stage in the Commission's consideration of what regulatory action, if any, to take with respect to risks of death and injury resulting from fires started by children playing with cigarette lighters. All interested persons are invited to submit to the Commission:

(1) Written comments concerning the risk of injury discussed in this notice; the regulatory alternatives being considered by the Commission to address those risks; and other possible alternatives to address those risks.

(2) Any existing standard or portion of an existing standard which could be published as a proposed consumer product safety standard.

(3) A statement of intent to modify or develop a voluntary standard to address the risks of injury discussed in this notice, together with a description of the plan for modification or development of that standard.

Any plan submitted with a statement of intent to modify or develop a voluntary standard should include, to the extent possible, a description of how interested groups and persons will be notified that a proceeding to modify or develop a voluntary standard is under way; a description of how the views of interested groups and persons will be addressed in the development of the standard; a detailed discussion of how the modification or development of the standard will proceed; a realistic estimate of the length of time that will be required to modify or develop the standard; a list of persons expected to participate in the modification or development of the standard, together with information about their backgrounds and experience; and a description of any facilities or equipment that will be used during the project.

All comments and submissions should be addressed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, and received not later than May 2, 1988.

Dated: February 23, 1988.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Reference Documents

The following documents contain information relevant to this rulemaking proceeding and are available for inspection at the Office of the Secretary, Consumer Product Safety Commission, Room 528, 5401 Westbard Avenue, Bethesda, Maryland:

1. Briefing materials on Cigarette Lighter Petition, dated November 1987. (The TABS are listed separately below):

2. TAB A—Memorandum from Alan Shakin, Attorney, Office of the General Counsel, to Dr. Leonard DeFiore, Executive Director, dated May 29, 1985, entitled Petition on Disposable Lighters. Petition and supporting information submitted by Diane L. Denton, R.N.

3. TAB B—Materials submitted by Diane L. Denton, R.N., in support of petition for rulemaking.

4. TAB C—Fire Hazards Involving Children Playing with Cigarette Lighters, by Beatrice Harwood, September 1987.

5. TAB D—Memorandum from John O'Connor, ESMT, to James Sharman, EXPB, dated September 29, 1987, entitled Examination of Cigarette Lighters Associated with Children's Use.

6. TAB E—Memorandum from Dale R. Ray, ECPA, to L. James Sharman, OPMB, dated October 8, 1987, entitled Lighters. Memorandum from Dale R. Ray, ECCP, to Paul H. Rubin, AED/Economic Analysis, dated May 5, 1987, entitled Cigarette lighters: Accident Cost Update.

7. TAB F—Consumer Product Safety Alert, dated September 1987, entitled Danger—Children and Lighters.

8. TAB G—American Society for Testing and Materials safety standard F400–85 for cigarette lighters.

9. TAB H—Memorandum from Warren A. Mathers, EPHF, to Jim Sharman, OPMB, dated October 28, 1987, entitled Evaluation of Ability of Children to Operate Cigarette Lighters.

10. TAB I—Memorandum from Barbara J. Jacobson, HSPS, to L.J. Sharman, Fire Programs Officer, dated November 3, 1987, entitled Cigarette Lighters Petition Briefing Package—2nd Draft.

11. TAB J—Log of meeting on June 3, 1987, of ASTM Task Group F 15.02 on Safety Standards for Lighters.

12. Memorandum from Dale R. Ray, ECPA to L. James Sharman, dated January 15, 1988, entitled Retail Price Information for Refillable Lighters.

[FR Doc. 88–4625 Filed 3–3–88; 8:45 am]

BILLING CODE 6355–01–M

POSTAL SERVICE

39 CFR Part 111

Supplements and Enclosures in Second-Class Publications

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Beginning in September of 1986, the Postal Service published a number of proposed rules intended to provide mailers an opportunity to comment on different issues concerning the use of supplements, attachments, and enclosures with second-class mail. After reviewing comments to these earlier proposals, the Postal Service is now proposing regulations which, if adopted, will provide new rules for mailing third-class enclosures with second-class publications and will clarify existing postal regulations and procedures concerning the mailing of supplements to second-class publications. In particular, the proposed rule includes expanded regulations for the inclusion of third-class enclosures; recommends methods for identifying supplements; specifies addressing options for polywrapped second-class publications; generally requires a supplement to a bound second-class publication to be bound into, or permanently attached within, the second-class publication it is supplementing; prohibits supplements from bearing a permit imprint; and requires publishers of unbound second-class publications to insert properly prepared supplements within the publications.

DATES: Comments must be received on or before April 4, 1988.

ADDRESS: Director, Office of Classification and Rates Administration, U.S. Postal Service, 475 L'Enfant Plaza, West, SW., Washington, DC 20260–5360. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 8430, at the above address.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Young, Office of Classification and Rates Administration, (202) 268–5321.

SUPPLEMENTARY INFORMATION: In an effort to acquire information from mailers on how the rules governing the mailing of supplements could be clarified, and how changes in the technology being applied to the preparation of second-class publications might make changes in the rules governing the mailing of enclosures with second-class publications desirable, the Postal Service published a request for comments on proposed amendments to the Domestic Mail Manual to change the general conditions under which publishers could include supplements in the regular issues of a newspaper or other periodical publication entered as second-class mail. 51 FR 31673 (September 4, 1986). In particular, those proposed rules would have permitted supplements packaged together with second-class periodicals within a plastic wrapper or polybag to travel at second-class rates and specified the manner of addressing and packaging for such materials. Historically, supplements to bound publications which contained

advertising were required to be permanently attached to the publication.

Following comments from mailers and further study, the Postal Service, on December 12, 1986, published a second proposed rule concerning supplements which specifically addressed the potential dangers to the favored status of second-class mail from the indiscriminate inclusion of materials with second-class publications. 52 FR 44801. That proposal would have placed limits upon the use of supplements, together with clarifying regulations and addressing rules similar to those proposed in the September proposal. The Postal Service received a number of adverse comments concerning some of the proposed limitations.

On July 22, 1987, the Postal Service published a third proposed rule which provided the mailing industry and interested persons with an additional opportunity to furnish ideas and suggestions for regulations regarding supplements to second-class publications. 52 FR 27565. That notice sought to obtain mailers' comments on specific issues for which the Postal Service wanted further guidance. A total of 84 comments were received from mailers, organizations, publishers and other mailers.

In preparing the current rule, the Postal Service has carefully reviewed all the comments received during this extended period of notice and comment rulemaking, as well as the regulations which have governed the use of supplements and attachments. The Postal Service believes that the best approach for meeting the concerns of various groups of second-class mailers while protecting the integrity of second-class mail is to clarify the existing supplement rules, which require supplements to be closely identified with the "host" second-class publication. In particular, the Postal Service is proposing that, with certain exceptions, supplements to bound publications be attached or bound into the publication and supplements to newspapers be combined with and inserted into the publication. At the same time, the Postal Service proposes to amend the rules concerning third-class matter that is paid at third-class rates and mailed with bound second-class publications to take advantage of new technologies, especially polybagging, which accommodate the inclusion of other types of mail matter with second-class mailings. In addition, the Postal Service is incorporating in this proposal some of the detailed supplement rules it proposed in the last rulemaking to clarify the rules which pertain to supplements and to assist in the processing of second-class mail. It is anticipated that the regulations proposed in this notice will neither expand nor contract the class of material eligible for second-class status, but will provide a clearer statement of the rules governing supplements, enclosures, and additions to second-class publications.

These proposed rules are the product of an intensive examination of these issues by the Postal Service, aided by three separate notices and requests for comments. However, comments received in response to the July 22, 1987 proposal are discussed below to provide the fullest possible information to interested individuals. Because these proposed rules are the result of a reconsideration of all three proposed rules, interested individuals wishing to comment on this proposal should present their views in comments to this rulemaking, and should not simply rely on comments previously submitted in response to one or more of the earlier proposed rules.

Discussion of Comments to July 22, 1987 Proposed Rule

1. Definition of Supplement

One commenter, in supporting the definition for a supplement in the last proposed rule, pointed out that (a) receipts and orders for subscriptions, and (b) incidental First-Class attachments or enclosures, in addition to supplements as defined, may be mailed with second-class publications. Since these items are already allowed by current regulations and are not affected by the proposed rule, no change in the definition would have been necessary to accommodate them.

The Postal Service is now proposing a definition of a supplement which simply states that a supplement consists of one or more printed sheets which are prepared as part of the second-class issue, and is eligible for second-class rates. It may contain advertising matter, nonadvertising or both.

2. The Requirement That Supplements be Germane

The Postal Service has also retained the proposal that supplements must be germane to the issue in this rulemaking, as is required under existing regulations. Only one comment on this subject was received, which supported the proposed rule.

3. The Requirement That Supplements be Folded and Mailed With the Regular Issue

Two comments addressed a regulation not proposed to be changed by the July, 1987 proposal, the current regulation requiring supplements to be folded and mailed with the regular issue. One commenter stated that supplements should be folded when the external dimensions of the second-class publication are exceeded. The other commenter stated that there should be no requirement to fold a one-page supplement, and that folding should not be required if the supplement does not exceed the external dimensions of the second-class publications.

The word "fold" is used in the existing regulation with its traditional, somewhat archaic meaning—"to incorporate closely" (as in folding egg whites into a batter). To avoid confusion and modernize our language, we propose to remove the word "fold" and provide that supplements to bound publications must be bound into, or permanently attached within, the publications, while supplements to publications composed of unbound folded sheets, such as newspapers, must be combined with and inserted into the publications. However, maps, diagrams, or illustrations which are referred to in the publication (or which form a necessary part thereof), as under current regulations and practice, will be admissible as supplements even if not bound into the publication if the second-class publication and the supplement are enclosed in an envelope or wrapper or when contained in a sleeve.

4. Advertising and Nonadvertising Content of Supplements Are Included In Determining the Total Advertising and Nonadvertising Percentages of the Second-Class Publication

No comments were received regarding the proposal that the nonadvertising and advertising content of a supplement be included when determining the total percentages of advertising and nonadvertising matter in each issue. The Postal Service has retained this part of the proposed rule.

5. Size Restrictions on Supplements

Four comments were received regarding the proposal that the external dimensions of the supplement may not exceed the external dimensions of the second-class publication when presented for mailing. One commenter stated that the rule could disqualify an "honest supplement" since supplement and publication could vary in size depending on the pressrun and the type

of press used. One commenter suggested the proposal be modified by adding "Unless the combination is totally enclosed in an envelope, plastic wrapper, or paper wrapper." One commenter suggested that there be a tolerance factor by which the supplement can exceed the dimensions of the second-class publication, and the fourth commenter stated that the matter should be dealt with on a case-by-case basis with the newspapers being warned but not penalized.

The Postal Service is proposing in this rulemaking a number of changes in this rule. Supplements in bound publications will generally be required to be bound into the publication. Supplements in unbound publications must be inserted within the publication. The new proposed regulations for third-class printed material mailed with bound publications prepared in certain ways will allow a one-inch tolerance in the size of those attachments.

6. Permit Imprints on Supplements

Fourteen comments were received regarding the proposal that the second-class publication and its supplement must be prepared so that no permit imprint will be visible to mail handling personnel. Several indicated that the removal of the permit imprint would be too costly. One commenter indicated that if permit imprints are not permissible, the Postal Service would eliminate a number of potentially confusing questions regarding classification and penalties for noncompliance. Another advised that allowing the permit imprint to be shown contradicts the opening statement of the July 22 **Federal Register** notice, where the Postal Service expressed concern over protecting the integrity of second-class mail and stated that second-class mail can be undermined by the inclusion of indiscriminate forms of loose advertising matter. Still another said that advertising mail which is independently sent as third-class mail should not qualify for second-class rates just because it is wrapped in the same envelope as a periodical and its permit is hidden from view. Another commenter stated that the permit imprint is a clear indication that such material was not prepared as a supplement, having been omitted in the interest of space, time, or convenience. Another commenter suggested that this proposal would permit an advertising "fire sale," that is, some publishers would call the catalog mailers, and advise them that there is space in their magazines for a third-class catalog. Apparently, this would be a very attractive proposition to catalog mailers since they would not have to remove permit imprints and could utilize stocked material. Others indicated that it is wrong to allow material bearing a permit imprint to be treated as a supplement.

Because we do not believe these materials meet the current standards for supplements, the Postal Service is proposing a new rule to make it clear that supplements to second-class mail may not bear any permit imprint indicia. Permit imprints will, however, be allowed on third-class enclosures if the imprints are not visible to mail handling personnel, and if the appropriate third-class rates are paid.

7. Use of the Endorsement "Supplement To" on Non-Advertising Supplements

Eight comments were received regarding the proposal that nonadvertising supplements be endorsed "Supplement to" followed by the name of the publication or the name of the publisher. Two commenters stated that it does not make much sense to require that endorsement on nonadvertising supplements and not require it on advertising supplements. One commenter stated that such a requirement serves no purpose since many editorial supplements already contain some designation that ties them to their parent publication, and that such a restriction is not germane to the stated goal of maintaining a distinction between second-class and other classes of mail. One commenter stated that a third category should be developed since many publishers produce directories, planners and special sections as part of their regular issues. One commenter stated that newsletters are distributed in a variety of ways and their producers resist printing endorsements such as "Supplement To" on their pieces. One commenter stated that his organization prints on a monthly basis a prayer calendar and offering envelopes for the denomination and distributes them to individual congregations, and it would be difficult to print the endorsement on the material. One commenter stated that there is no reason why a supplement cannot be endorsed "Supplement to," and the real issue is whether the high standards of second-class will be diminished by inclusion of advertising that is not even identified as being part of the second-class publication. Another commenter stated that at least one of the recommended indicators in proposed DMM § 425.45a–d be required for supplements to second-class publications.

The Postal Service believes that it is desirable for mailers to identify those materials they include as supplements, and is proposing to include a list of recommended ways to identify supplements. However, given the other rules it is proposing, the Postal Service does not believe it is necessary to require this identification.

8. Methods of Identifying Advertising Supplements

Thirty-one comments agreed with the Postal Service decision not to require that the endorsement "Supplement to" be printed on advertising supplements. Seventeen of those commenters also approved the withdrawal of the page limitation proposal for supplements. As set forth in paragraph 7 above, the Postal Service again has proposed not to require the use of the endorsement "Supplement to" on second-class supplements. However, publishers are urged to identify material which they believe qualifies for second-class rates as a supplement. To assist them, the Postal Service is proposing several ways to identify supplements. None of these identifications are required, and use of them will not qualify ineligible material for second-class rates.

9. Pages, Parts, and Sections

No comments were received regarding the proposal that the requirements pertaining to supplements may not be circumvented by designating them as pages, parts, or sections. The Postal Service has retained this concept in this rulemaking, but has simplified the language of the rule.

10. Editions

One favorable comment was received regarding the proposal that supplements may be included in copies of editions, and a separate mailing statement must be filed for each edition, but the commenter suggested that a separate mailing statement would not be needed if the editions weighed the same and contained the same percent of advertising. The Postal Service has retained the proposed rule in this rulemaking; we think it is unlikely that separate editions will often have the same weight and advertising percentage.

11. Loose Supplements

In the July rulemaking, the Postal Service proposed that loose supplements may be mailed together with bound publications only when the loose supplements and bound publications are totally enclosed in an envelope, plastic wrapper (polybag), or paper wrapper. Having reconsidered the matter after reviewing the comments, the Postal Service has decided not to go

forward with that proposal. In the past loose printed matter generally was prohibited from being mailed at the second-class rates as supplements to bound second-class publications. DMM § 425.9, for example, currently requires that advertisements must be permanently attached in bound publications. This regulation reaches back over a hundred years. The Postal Service has determined that allowing loose supplements would remove these traditional restrictions, originally enacted by Congress, on second-class supplements, and, in turn, undermine the fundamental purpose and integrity of second-class mail. In particular, the Postal Service has concluded that the earlier proposal would have resulted in a substantial migration of nongermane and independent third-class material to second-class. It is, therefore, no longer proposing to allow the inclusion of loose printed materials with bound second-class publications. Instead, the Postal Service is proposing to continue to require that supplements to bound publications be bound in, or permanently attached within, the publication, while supplements to unbound publications must be combined with, and inserted within, the publication. This regulation will prevent the migration of third-class material to second-class by continuing the policies which have been applied in the past to second-class bound publications. At the same time, the binding in, or permanent attachment of supplements to the host publication will help provide necessary evidence that the supplement is germane to the publication.

Although the Postal Service is no longer proposing to allow loose printed matter to be mailed as supplements in bound publications, it is proposing to allow loose third-class printed material to be included with a second-class publication when totally enclosed in an envelope, plastic wrapper (polybag) or paper wrapper; or when the second-class publication and the third-class material are contained in a sleeve; or when the third-class material is inserted within the pages of the publication and held in place by tension, or secured in such a manner that it will not be separated from the publication while in the mail, provided that the appropriate third-class rate is paid for the third-class material.

12. Prohibitions on Supplements Primarily Designed for Advertising

No comments were received regarding the proposal that a publication owned or controlled by a publisher of an existing second-class publication and used essentially for the advancement of any other business or calling of those who own and control it cannot qualify as a supplement to a second-class publication. The Postal Service has retained that feature as a proposed rule in this rulemaking.

13. Use of ISSN and ISBN Numbers on Supplements

No comments were received regarding the proposal that publications containing an ISSN (International Standard Serial Number) or ISBN (International Book Serial Number), cannot qualify as supplements to second-class publications. However, one comment was received regarding the related proposal that independent publications are ineligible as supplements if they are third- or fourth-class materials such as paperback books, hardback books, and catalogs. The commenter suggested that neither third- nor fourth-class catalogs should qualify as supplements. The Postal Service has retained the proposed language in this rulemaking.

14. Price, Volume, or Issue Numbers on Supplements

No comments were received regarding the proposal that publications containing a price, volume, or issue number cannot qualify as supplements to second-class publications. The Postal Service has retained this proposed rule by providing that the presence of a separate price, volume number, or issue number on printed material included with a second-class publication is evidence that the material is actually a separate publication.

15. Mastheads on Supplements

One comment each was received regarding the proposals that publications containing their own masthead, or stated frequency of issue, cannot qualify as supplements to second-class publications. In the former, the commenter said that some traditional syndicated newspapers and periodicals, such as Parade Magazine, often have separate mastheads, although they are integral sections of second-class publications. In the latter, the commenter indicated that publications which show a seasonal date, such as, Winter, Summer, etc., should not be disqualified as supplements to second-class publications. The Postal Service is now proposing that a separate masthead or stated frequency of issue is an indication that an item is actually a separate publication, but that material containing its own masthead is eligible as a supplement if it also bears the title of the host second-class publication on the front cover page.

16. Products and Product Samples

The Postal Service proposed that product and product samples are ineligible as supplements. This proposal was based on current DMM § 421.4, and section 200.0103 of the Domestic Mail Classification Schedule, which require that second-class publications must be formed of printed sheets.

Three comments were received regarding the proposal that products and product samples such as calendars, are ineligible as supplements. One commenter asked that the regulation specify that calendars of events or educational materials with historical references be accepted as supplements. One commenter stated that many classroom publications include a calendar for the month of the issue showing historical events, holidays, and other educational information. In addition, some trade and business publications contain a calendar of upcoming business meetings, conventions, etc. One commenter suggested that the regulations specify that blank calendars do not qualify as supplements. The Postal Service has retained this aspect of the proposed rule here, but has added a statement of the limits under which calendars may qualify as second-class mail. In general, this rule distinguishes between calendars which are products or product samples, and therefore ineligible for inclusion in the publication as a supplement, and properly prepared calendars of events, which may be included as a supplement.

17. Supplements Mailed Separately

No comments were received regarding the proposal that supplements may not be mailed by themselves at the second-class rates of postage, but are subject to the applicable third- or fourth-class rates of postage according to weight. The Postal Service has retained this proposed rule in this rulemaking.

18. Addressing Requirements

Twenty-two negative comments were received regarding the general addressing proposal, which provided rules for the addressing of polywrapped second-class publications and their supplements and attachments. One commenter said that a certain amount of shifting of label carriers should be allowed without having to attach or secure label carriers that are not the same size as the publication so long as the movement is minimal and does not cause a postal handling problem.

Another stated that label carriers will lose their effectiveness as renewal notices and subscription bills if only the proposed items of information are allowed on the label carriers. Another urged elimination of the requirement that the address be on the same side as the front cover of the publication. Others said that the label carrier has considerable potential for being used as a turnaround renewal or invoice piece.

In light of the comments received, the Postal Service is modifying its proposal for addressing of polybagged second-class publications, and is extending the addressing regulations to situations in which third-class enclosures are present. In particular, the Postal Service is proposing to require certain information on the label carrier; to expand somewhat the additional material which may be placed on the carrier; and to alter the placement of the carrier in accordance with some of the limitations of the technology used in polybagging described by mailers.

19. Other Addressing Issues

Three negative comments were received regarding the proposal that addresses, including address strips, may appear on receipts and orders for subscriptions and incidental First-Class attachments when the receipts and orders for subscriptions and incidental First-Class attachments are securely affixed to the covers of the second-class publications. The commenters suggested that this proposal be modified to require affixing them to the covers of the second-class publications, unless they are of sufficient size to prevent them rotating inside the polybag during processing. In light of the comments received, the Postal Service is modifying its proposed rule by making this section correspond to the general addressing requirements.

20. No Addresses On Supplements

One negative comment was received regarding the proposal that a supplement mailed at the second-class postage rates may not be addressed. The commenter stated that its supplements usually consist of less than a dozen pages (usually two or three) of advertising material. The supplement is placed on the back cover of the second-class publication, and the subscriber's name and address are printed directly on the supplement or affixed to a mailing label which is affixed to a label carrier that is placed on top of the supplement. Because of the need to clearly identify a supplement with its host publication, the Postal Service has retained the proposed rule in this rulemaking. However, it has also proposed that label carriers used for addressing will be acceptable.

Although exempt by 39 U.S.C. 410(a) from the provisions of the Administrative Procedure Act regarding proposed rulemaking, 5 U.S.C. 553 (b), (c), the Postal Service invites public comments on the following proposed revisions of Parts 136, 425, and 452 of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR Part 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. Authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. In Part 136, replace 136.31 with the following:

PART 136—MIXED CLASSES OF MAIL

* * * * *

.31 With Second-Class Publications.

.311 Loose third-class enclosures may be mailed together with a bound second-class publication only when:

a. The third- and second-class materials are totally enclosed in an envelope, plastic wrapper (polybag) or paper wrapper, or

b. The third- and second-class materials are contained in a sleeve and the enclosures are inserted within the pages of the publications and held in place by tension, or secured in such a manner that they will not be separated from the publication while in the mails; and

c. The total weight of all enclosed third-class materials most not exceed the weight prescribed for third-class mail in 621.1(c); and

d. The applicable third-class rate is paid on the third-class enclosure or attachment. Pieces of related matter enclosed with the publication as a unit may be regarded as a single enclosure for the purpose of computing postage.

.312 In preparing loose enclosures as authorized by 136.311, the following are required:

a. The external dimensions of the enclosure may not exceed the external dimensions of the second-class publication except that a one-inch tolerance in total length and total width will be allowed—an enclosure may exceed the length or width of the second-class publication by no more than 1 inch.

b. The publication and the third-class enclosures must be prepared so that no permit imprint will be visible to mail handling personnel.

c. If enclosed in a plastic wrapper or polybag, the second-class publication must be the top or bottom piece, must face out, and its title must be visible.

d. See 452.1g and h for addressing requirements.

e. The third-class enclosure must not be addressed.

.313 Separate and independent pieces of First-Class Mail may be mailed as enclosures with second-class publications when postage at the appropriate First-Class rate is paid for the enclosed material. Pieces of related matter enclosed with the publication as a unit may be regarded as a single enclosure for the purpose of computing postage.

.314 The applicable First- or third-class postage may be placed on the enclosure by using precanceled stamps, or the postage may be placed on the outside envelope, wrapper, or cover by using precanceled stamps, meter stamps, or permit imprints. Postage at the second-class rates must be paid on the publication in the manner prescribed by 480.

.315 Marking Required. When postage for the enclosure is placed on the outside envelope, wrapper, or cover of a publication, the mailer must mark each piece as required by 136.325. Markings are not required when postage is placed on the enclosure.

3. In Part 425, revise 425.23 by adding a new section as follows:

425.23 Editions

.234 Editions. When supplements are included in copies of editions, each edition must have a separate mailing statement.

4. In Part 425, revise 425.4 to read as follows:

425.4 Supplements.

.41 Definition. A supplement consists of one or more printed sheets which are prepared as part of the second-class issue and is eligible for second-class rates. It may contain nonadvertising matter, advertising matter, or both.

.42 General Conditions. A publisher may include supplements in the issue of a publication entered as second-class mail subject to the following conditions:

a. The supplement must be germane to the issue, having been omitted in the interest of space, time, or convenience.

b. A supplement to a bound publication must be bound into, or permanently attached within, the publication, except that maps, diagrams, or illustrations which are referred to in

the publication (or form a necessary part thereof) are admissible as supplements even if not bound into the publication. Publications containing supplements that are loose maps, diagrams, or illustrations must comply with the packaging requirements for loose third-class enclosures contained in DMM 136.31.

c. A supplement to an unbound publication must be combined with, and inserted within, the publication.

d. The nonadvertising and advertising content of the supplement is included when determining the percentages of advertising and nonadvertising matter in each issue.

e. A supplement may not bear a permit imprint.

f. Material prohibited as supplements may not be prepared as parts or sections.

g. A supplement may not be mailed by itself at the second-class rates of postage.

h. A supplement may not be addressed.

.43 Supplement Identification. Although not required, one or more of the following methods of identification can provide evidence that material included in a publication qualifies as a supplement:

a. Include the material in the pagination of the copies of the second-class publication.

b. List the materials in a table of contents, or elsewhere in the second-class publication.

c. Show the second-class title and the date of issue in the foot or datelines of the material.

d. Show "Supplement to" followed by the name of the second-class publication or the name of the publisher on the material.

.44 Limitations. Material which is not added to complete a copy of a second-class publication, or is not formed of printed sheets, or is otherwise ineligible for second-class rates cannot qualify as a supplement to a second-class publication. Among such materials are:

a. Independent publications. Independent publications may not be mailed as supplements. Examples include third- or fourth-class materials such as paperback books, hardback books, and catalogs. The following characteristics provide evidence that the printed material is actually a separate publication: masthead, price, volume number, issue number, or stated frequency of issue. Items bearing an ISSN (International Standard Serial Number) or ISBN (International Standard Book Number) are deemed to be independent publications and may not be mailed as supplements. Materials that contain their own mastheads and do not bear the title of the host second-class publication on the front cover page are not supplements.

b. Products and product samples. Products and product samples are ineligible as supplements. Examples include: (1) stationery (such as pads of paper, or blank printed forms), (2) cassettes, (3) floppy disks, (4) merchandise samples, (5) swatches of materials, (6) envelopes containing enclosures, and (7) wall, desk, and blank calendars. Properly prepared calendars of events may be included as supplements if they are prepared as pages of the second-class publication.

c. Publications owned or controlled by a publisher of an existing second-class publication and used essentially for the advancement of any other business or calling of those who own or control it may not be mailed as supplements.

5. In Part 452, add new subsections 452.1g and h as follows:

452.1 General Addressing

* * * * *

g. Addresses, including address strips, may appear on a label carrier (which may be card or paper stock), receipts and orders for subscriptions, and incidental First-Class attachments, when totally enclosed in a plastic wrapper or polybag, subject to the following conditions:

(1) The label carrier must bear the following items of information: (a) The second-class imprint or the endorsement "Second-Class" in the upper right corner of the address side (or alternatively the second-class imprint or the endorsement "Second-Class" may be printed on the address side of the polybag in the upper right corner); (b) the title of the second-class publication; and (c) the address to which the package can be returned if it is undeliverable as addressed and bears the endorsement "Return Postage Guaranteed."

(2) In addition to the items listed in (1) above, the label carrier may bear only the following additional items of information: (a) subscription renewal information; (b) requests for address correction information from the addressee, provided the address is surrounded by a clear area on the label carrier (containing no information other than the address of the piece). In addition, the endorsement "Third Class Mail Enclosed," as appropriate, may be placed below the second-class imprint or the "Second-Class" endorsement.

(3) The address may be positioned on the label carrier in the manner shown in Exhibit 452.6. To avoid problems in postal operations, label carriers which are not the same size as the publication must be secured in such a manner so as to prevent the label carrier from rotating inside the plastic wrapper. Subscription renewal notices and label carriers which are not the same size as the second-class publication need not be attached if their size will prevent them from rotating inside the polywrapped mail piece.

(4) Addresses, including address strips, may appear on receipts and orders for subscriptions and incidental First-Class attachments when the receipts and orders for subscriptions and incidental First-Class attachments are securely affixed to the covers of the second-class publications, unless the size of the receipts, orders for subscriptions, or incidental First-Class attachments is such that they will not rotate inside the polybag.

h. A supplement mailed at the second-class postage rates may not be addressed (see 425.42j). Label carriers are not supplements for purposes of these regulations.

An appropriate amendment to 39 CFR Part 111 to reflect these changes will be published if the proposal is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-4658 Filed 3-2-87; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3336-4]

Approval and Promulgation of Air Quality Implementation Plans, Connecticut; Alternative Reasonably Available Control Technology for Guilford Gravure Company, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a proposed State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision provides an alternative reasonably available control technology (RACT) determination for the control of volatile organic compound (VOC) emissions from three packaging rotogravure printing presses at Guilford Gravure Company, Incorporated in Guilford, Connecticut. The intended effect of this action is to propose approval of the State's request to amend its SIP. This action is being taken in accordance with section 110 of the Clean Air Act.

DATES: Comments must be received on or before April 4, 1988. Public comments on this document are requested and will be considered before taking final action on this SIP revision.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Management Division, EPA Region I, Room 2311, JFK Federal Bldg., Boston, MA 02203. Copies of Connecticut's submittal and EPA's Technical Support Document prepared for this revision are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2311, JFK Federal Bldg., Boston, MA 02203 and the Air Compliance Unit, Department of Environmental Protection, State Office Bldg., 165 Capitol Avenue, Hartford, CT 06106.

FOR FURTHER INFORMATION CONTACT: David B. Conroy, (617) 565-3252; FTS 835-3252.

SUPPLEMENTARY INFORMATION: On January 5, 1987, the Connecticut Department of Environmental Protection (DEP) submitted a proposed SIP revision to EPA. This revision consists of proposed State Order No. 8004 issued to Guilford Gravure Company, Incorporated (Guilford). This State Order was issued pursuant to provisions found in subdivision 22a-174-20(cc)(3) of Connecticut's regulations which allow the DEP to impose alternative limitations on a source that has demonstrated it cannot meet the RACT limitations in the SIP for technological and economic reasons.

EPA approved the provisions of subsection 22a-174-20(cc)(3) for making alternative RACT determinations on June 7, 1982 (47 FR 24552) as part of Connecticut's Ozone Attainment Plan. As part of that SIP revision, Connecticut submitted a letter dated January 11, 1982, in which the State committed to submit all alternative RACT determinations to EPA as SIP revisions.

Summary of the Alternative RACT Determination

Guilford operates three packaging rotogravure printing presses with which Guilford prints custom labels for a variety of consumer products. Guilford is subject to the control requirements of subsection 22a-174-20(v) of Connecticut's regulations which requires Guilford to limit the discharge of VOC emissions by using inks that are either composed of a volatile organic component containing 25 percent by volume or less of organic solvent or containing 60 percent by volume or more nonvolatile materials, or by installing an add-on control system which yields an overall reduction in VOC emissions of a minimum of 65 percent. These limitations are equivalent to those specified in EPA's applicable control techniques guideline (CTG) document (EPA-450/2-78-033).

A major source subject to subsection 22a-174-20(v) is required to comply with its requirements no later than July 1, 1985. The Connecticut DEP issued a State Order to Guilford on October 2, 1981, requiring Guilford to comply through reformulation of its existing solvent-based inks to high solids and/or water-based inks by July 1, 1985.

The majority of all inks were reformulated to complying levels under Guilford's abatement efforts. A small number of inks, however, remained resistant to reformulation efforts displaying a variety of problems which could not be solved. These problems relate to drying time, printability, quality and even secondary processing operations performed by Guilford's customers. Guilford subsequently filed for an alternative RACT determination pursuant to subsection 22a-174-20(cc)(3) on the basis that its efforts had achieved substantial reductions in VOC emissions which were at least equivalent to those anticipated from this source by Connecticut's Ozone Attainment Plan and by EPA's applicable CTG document.

As alternative RACT, the State Order issued to Guilford requires Guilford to adhere to a daily allowable limitation on total VOC emissions of 1564 pounds, an average monthly VOC emission limitation of 2.15 pounds of VOC per pound of applied solids, and an annual allowable limitation on total VOC emissions of 80 tons.

The daily limitation on allowable VOC emissions is based on a 75 percent reduction in VOC emissions from the estimated average daily emissions that occurred during 20 days of high production in 1980 (the design year of the ozone attainment plan). The daily limitation on VOC emissions is necessary to ensure that maximum daily VOC emissions do not interfere with reasonable further progress (RFP) to attain the National Ambient Air Quality Standard (NAAQS) for ozone in accordance with Connecticut's approved Ozone Attainment Plan. Connecticut's 1982 Ozone Attainment Plan estimated that Guilford would be emitting approximately 1466 pounds of VOC/day in 1987 after achieving compliance with Connecticut's Graphic Arts regulation. This value is not, however, an enforceable limitation which Guilford is expected or required to maintain. It is, in fact, the *average* daily emissions level that was estimated for the facility after implementation of its control strategies. With the daily fluctuations in production that occur at Guilford, the company's daily VOC emissions would often exceed 1466 pounds/day (and the daily limitation required in the State Order) if Guilford were to install and operate add-on control equipment to reduce its VOC emissions from its three presses in accordance with the CTG.

The average monthly VOC emission rate is based on a 75 percent reduction (as was anticipated for sources which pursued reformulation as their compliance option by the Graphic Arts CTG) from Guilford's 1980 baseline emissions level of 8.61 pounds of VOC/pound of solids. This baseline was based on the total amount of VOC used in Guilford's printing processes in 1980 (total VOC purchases minus VOC removed as waste and VOC used as cleanup solvents) divided by the total amount of solids applied in 1980. Guilford will meet the average monthly emission rate utilizing a bubble between its water-borne inks and its solvent-borne inks. Under this bubble, Guilford will be required to use a sufficient amount of complying inks to offset the excess emissions from the noncomplying inks that Guilford uses. Adherence of this bubble to the requirements of EPA's December 4, 1986 Emissions Trading Policy Statement (51 FR 4314) including Appendix D of that policy, which is the January 20, 1984 memorandum from John R. O'Connor entitled "Averaging Times for Compliance With VOC Emissions Limits—SIP Revision Policy," is discussed in the Technical Support Document prepared by EPA for this revision which is available from the EPA Regional Office listed in the *Addresses* section of this notice.

The annual limitation on allowable VOC emissions is necessary to assure that the VOC reductions projected by Connecticut's Ozone Attainment Plan have been achieved. Connecticut's Ozone Attainment Plan projected a 74.8 ton per year reduction in VOC emissions from Guilford, from a total facility-wide uncontrolled level of 251 tons per year. A more recent analysis conducted by the state indicates that uncontrolled emissions from Guilford's printing presses in 1980 were approximately 179 tons per year; somewhat lower than originally estimated in Connecticut's Ozone Attainment Plan. Compliance with the State Order's annual limitation will reduce total VOC emissions from Guilford to 80 tons per year, resulting in an actual reduction greater than 99 tons per year. This represents a tighter annual emission limit and a greater reduction in absolute terms than originally anticipated by the Ozone Attainment Plan. Additionally, once the

limitation in the State Order is made federally enforceable by EPA's approval of the SIP revision, Guilford's potential VOC emissions will no longer exceed 100 tons per year. At that point, all of the requirements imposed on Guilford by the State Order will be more stringent than those required for graphic arts facilities under current EPA policy which allows for the exemption from control of facilities with potential VOC emissions of less than 100 tons per year.

At the present time, the State Order requires the annual limitation to be maintained on a calendar year basis. EPA does not believe that a limitation expressed in this manner is enforceable. EPA has asked the State of Connecticut to revise the limitation such that it be expressed in an enforceable manner. EPA has suggested that this limitation either be expressed as 6.66 tons of VOC per calendar month or as 80 tons of VOC in any period of twelve consecutive calendar months. EPA is requesting that this change be made prior to finalization of the State Order and its submission as a formal SIP revision.

To justify the above limitations as an alternative RACT determination, Guilford has submitted an extensive amount of technological and economic information showing that it cannot reasonably attain daily compliance with the emission limitations contained in Connecticut's federally-approved SIP. Guilford has shown that reformulation of the remaining non-complying inks is technologically and economically infeasible. Guilford has invested a considerable amount of money in its reformulation program for the testing of new inks, the development of new inks, associated consultants costs, and equipment costs for the equipment necessary to accommodate the complying inks. Additionally, Guilford has shown that it has incurred equally large costs in trying to develop complying inks for the solvent-based inks which have been resistant to reformulation. Because of the severe problems that Guilford has encountered in reformulating these inks, it is believed that conversion to water-based inks has been maximized as an abatement option for Guilford.

Therefore, it is believed that add-on controls are the only means by which Guilford could achieve daily compliance. Evaluation of the information Guilford submitted demonstrates that add-on controls are technologically and economically infeasible. Pursuant to an analysis of the cost of add-on controls on Guilford's three printing presses, it was determined that add-on control costs would exceed $7500/ton of VOC controlled based on Guilford's present rate of VOC emissions. The Connecticut DEP does not believe that this level of control is reasonable for Guilford based on the financial condition of the company and, more importantly, based on the fact that Guilford has already achieved substantial reductions in VOC emissions with its reformulation program sufficient to maintain RFP under Connecticut's Ozone Attainment Plan.

EPA has reviewed the requirements of proposed State Order No. 8004 and has determined that they constitute alternative RACT for Guilford. Further justification and rationale for approving this revision are contained in the Technical Support Document prepared by EPA for this revision. Copies of that document may be obtained from the EPA Regional Office listed in the **"ADDRESSES"** section of this notice.

EPA points out that the alternative RACT limitation being proposed for approval in this notice of 2.15 pounds VOC per pound of solids (monthly average) is higher than the 0.5 pounds VOC per pound of solids which EPA recommends as a means for alternative compliance with RACT for graphic arts printing facilities in a September 8, 1987 memorandum from Darryl D. Tyler, Director, Control Programs Development Division to Directors, Air Divisions, Regions I–X. However, as discussed above, EPA allows an exemption in our national guidance for graphic arts facilities which have potential VOC emissions of less than 100 tons per year. Since Guilford Gravure will have a federally-enforceable potential emission rate below 100 tons per year after approval of State Order No. 8004 as a SIP revision, this is the principal rationale for the proposed approval. Hence, this proposal approval covers only this limited case and should not be construed as a national precedent for other graphic arts facilities.

EPA is proposing to approve the DEP's proposed State Order as a revision to the Connecticut SIP, and is soliciting public comments. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **"ADDRESSES"** section of this notice.

This revision is being proposed under a procedure called parallel-processing, whereby EPA proposes rulemaking action concurrently with the State's procedures for amending its regulations. If the proposed revision is substantially changed, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made to the proposed revision, EPA will publish a final rulemaking notice. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by the State of Connecticut and submitted for incorporation into the SIP.

Proposed Action

EPA is proposing to approve Connecticut's proposed State Order No. 8004 as a revision to the Connecticut SIP. The provisions of Connecticut's proposed State Order No. 8004 impose alternative RACT on Guilford Gravure Company, Inc. pursuant to subdivision 22a–174–20(cc)(3) of Connecticut's regulations. EPA's final approval of State Order No. 8004 is contingent upon the State of Connecticut making the above mentioned changes to the State Order prior to its finalization and its formal submission to EPA as a SIP revision.

Under 5 U.S.C 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Editorial Note: This document was received at the Office of the Federal Register February 29, 1988.

Date: June 30, 1987.

Michael R. Deland,

Regional Administrator, Region I.

[FR Doc. 88–4609 Filed 3–2–88; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 52 and 81

[FRL-3336-3]

Approval and Promulgation of Implementation Plans Designation of Areas for Air Quality Planning Purposes; Indiana

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: USEPA is proposing to approve revisions to the Indiana State Implementation Plan (SIP) for sulfur dioxide (SO_2) under USEPA's "parallel processing" procedures. The revisions pertain to Indiana's SO_2 emission limits and plans for Jefferson, LaPorte, Marion, Posey, Sullivan, Vermillion, Vigo, and Wayne Counties. USEPA's action is based upon revision requests which were submitted by the State to satisfy the requirements of Part D and Section 110 of the Clean Air Act (Act). USEPA is also proposing to approve Indiana's request under section 107 of the Act to redesignate five townships in Marion County to attainment for SO_2, if Indiana provides additional compliance information during the public comment period.

DATE: Comments on these revisions, the redesignation, and the proposed USEPA actions must be received by May 2, 1988.

ADDRESSES: Copies of the SIP revisions, redesignation requests, and support documentation are available at the following addresses for review: (It is recommended that you telephone Robert B. Miller, at (312) 353–2205, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region, V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Office of Air Management, Indiana Department of Environmental Management, 105 South Meridian Street, P.O. Box 6015, Indianapolis, Indiana 46206–6015.

Comments on these proposed actions should be addressed to: (Please submit an original and three copies, if possible.)

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air and Radiation Branch (5AR–26), Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353–2205.

SUPPLEMENTARY INFORMATION: Under section 107 of the Act, USEPA has designated certain areas in each State as not attaining the National Air Quality Standards (NAAQS) for SO_2.[1] See 43 FR 8962 (March 3, 1978), 43 FR 45993 (October 5, 1978) and 40 CFR 81.315 for Indiana.[2] For these areas, Part D of the Act requires that the State revise its SIP to provide for attaining the primary NAAQS by December 31, 1982. These SIP revisions must also provide for attaining the secondary NAAQS as soon as practicable. The requirements for an approvable SIP are described in a "General Preamble" for Part D rulemaking published at 44 FR 20372 (April 4, 1979), 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979). In addition, section 110(a)(2) of the Act requires the State to adopt rules sufficient to assure attainment and maintenance of the SO_2 NAAQS in the unclassifiable and attainment areas in the remainder of the State.

Status of Indiana SO_2 SIP

On March 12, 1982 (47 FR 10813) and May 13, 1982 (47 FR 20583), USEPA approved or conditionally approved Indiana's SO_2 SIP for most areas of the State.

In these rulemakings, USEPA took no action on one of three compliance methods contained in Indiana's 1980 SO_2 regulation (325 IAC 7–1), i.e., the sulfur content in fuel averaging method which is based on 30-day averaging.

On May 11, 1984, the U.S. Court of Appeals for the Seventh Circuit set aside USEPA's approval of the SO_2 emission limits in Indiana's revised plan, because USEPA did not rulemake on the 30-day averaging compliance method contained in the rule. See *Indiana & Michigan Electric Company (IMEC) v. USEPA*, 733 F.2d 489. Based on this decision and another recent decision, *Sierra club v. Indiana-Kentucky Electric Company*, 716 F.2d 1145 (7th Cir. 1983), USEPA determined that there were no federally enforceable SO_2 emission limits regulating most existing sources in Indiana; [3] and Indiana no longer had an approvable SO_2 plan.

On February 4, 1987 (52 FR 3452), USEPA published a notice of proposed rulemaking on the Indiana SO_2 plan. That notice proposed to disapprove Indiana's overall SO_2 plan, because the 30-day averaging compliance methodology in the rule (325 IAC 7–1–3) was inconsistent with protection of the 3-hour SO_2 NAAQS; and the stack test methodology, which is consistent with short-term emission limits, was not independently enforceable.

For 77 of Indiana's 92 counties, this was the only basis for the proposed disapproval of Indiana's SO_2 plan.[4] For the remaining 15 counties, technical deficiencies were noted as well.[5]

USEPA's February 4, 1987, notice indicated that correction of the identified deficiency in the compliance methodology rule would allow USEPA to reinstate its March 12, 1982 (47 FR 10813), final approval for these 77 counties. On March 12, 1987, Indiana submitted to USEPA for "parallel processing" [6] its proposed revised

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[1] The primary SO_2 NAAQS is violated when, in a calendar year, either: 1) the annual arithmetic mean value of SO_2 concentration exceeds 80 micrograms per cubic meter of air (80 $\mu g/m^3$) (the annual primary standard), or 2) the maximum 24-hour concentration of SO_2 at any site exceeds 365 $\mu g/m^3$ more than once (the 24-hour primary standard). The secondary SO_2 NAAQS is violated when the maximum 3-hour concentration at any site exceeds 1,300 $\mu g/m^3$ more than once.

[2] Of the counties addressed in today's notice, portions or all of LaPorte, Marion, Vigo, and Wayne Counties are designated primary nonattainment for SO_2: Jefferson County is designated "cannot be classified;" and Posey, Sullivan, and Vermillion Counties are designated attainment. See 40 CFR 81.315.

[3] New sources constructed under (or existing sources limited by construction of new sources under) USEPA-approved new source review (NSR) regulations, USEPA's prevention of significant deterioration (PSD) regulations, or USEPA's new source performance standards (NSPS) regulations remain bound by the SO_2 emission limitations required by these regultions or permits issued based on these regulations. These limits continue to be fully enforceable, and, unless they are supplemented by more stringent limits in the revised county-specific regulations, these limits are inherent parts of the Indiana SO_2 attainment plans being proposed in today's notice.

[4] These 77 counties are: Adams, Allen, Bartholomew, Benton, Blackford, Boone, Brown, Carroll, Cass, Clark, Clay, Clinton, Crawford, Daviess, Decatur, Dekalb, Delaware, Dubois, Elkhart, Fayette, Fountain, Franklin, Fulton, Grant, Greene, Hamilton, Hancock, Harrison, Hendricks, Henry, Howard, Huntington, Jackson, Jasper, Jay, Jennings, Johnson, Knox, Kosciusko, Lagrange, Lawrence, Madison, Marshall, Martin, Miami, Monroe, Montgomery, Newton, Noble, Ohio, Orange, Owen, Parke, Perry, Pike, Pulaski, Putnam, Randolph, Ripley, Rush, St. Joseph, Scott, Shelby, Spencer, Starke, Steuben, Switzerland, Tippecanoe, Tipton, Union, Vanderburgh, Wabash, Warren, Washington, Wells, White, and Whitley. All of these counties are designated "Better than National Standards" for SO_2 (40 CFR 81.315).

[5] The remaining 15 Counties are: Dearborn, Floyd, Gibson, Jefferson, Lake, La Porte, Marion, Morgan, Porter, Posey, Sullivan, Vermillion, Vigo, Warrick, and Wayne. Today, USEPA is proposing rulemaking on eight of these counties, i.e., Jefferson, La Porte, Marion, Posey, Sullivan, Vermillion, Vigo, and Wayne Counties. It will rulemake on the remaining seven in future notices.

[6] The generic procedures for "parallel processing" are described at 47 FR 27073 (June 23, 1982). The State and USEPA propose rulemaking at roughly the same time, announce concurrent comment periods, and jointly review public comments. The State and USEPA then coordinate resolution of any

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compliance methodology rule, 325 IAC 7–1–3.1, as preliminarily adopted by the Board on March 4, 1987.[7] The revised compliance methodology rule replaces 325 IAC 7–1–3 in the 1980 version of 325 IAC 7–1. The revised rule includes a stack test compliance method and either a 30-day or a calendar month averaging fuel analysis method (depending upon the size of the source), each of which may be used at any time to determine compliance or non-compliance with source emission limitations.[8] However, a determination of non-compliance through the use of one method cannot be refuted by evidence of compliance through the other method.

In accordance with the February 4, 1987, proposed rulemaking notice, on July 17, 1987 (52 FR 27016), USEPA (1) proposed for parallel processing to approve 325 IAC 7–1–3.1, because it provides for the independent use of stack testing to determine compliance with the SO_2 emission limits in 325 IAC 7–1; (2) proposed to reinstate the other provisions of 325 IAC 7–1; and (3) proposed to reinstate its approval of Indiana's plan for the 77 counties, based on the revised compliance methodology.

On October 21, 1987, Indiana submitted 325 IAC 7–1–3.1, as promulgated by the State on September 24, 1987. On January 19, 1988 (53 FR 1354), USEPA approved this rule for inclusion into the Indiana SO_2 SIP statewide; reinstated the other general provisions of 325 IAC 7–1 (1980), i.e., 325 IAC 7–1–1, 2 (except for any emission limits in the 15 counties), 4, 5, 6, and 7 statewide; and, based on its approval of the revised compliance methodology, reinstated its approval of Indiana's SO_2 plan for the 77 counties.

Indiana has also submitted county-specific plans for parallel processing for several other counties, including Jefferson, La Porte, Marion, Posey, Sullivan, Vermillion, Vigo, and Wayne Counties. These plans consist of source-specific emission limits for certain sources, with the remainder of the sources in each county limited by the underlying 6.0 pounds per million British Thermal Units (lbs/MMBTU) emission limit in 325 IAC 7–1–2.[9] Additionally, all sources are required to meet the remaining requirements of 325 IAC 7–1, as modified with new compliance methodology 325 IAC 7–1–3.1. (As noted before, the general requirements of 325 IAC 7–1 (with the exception of the 6.0 lbs/MMBTU emission limit in 325 IAC 7–1–2) were reinstated as a portion of the Indiana SO_2 SIP for all counties and new compliance methodology 325 IAC 7–1–3.1 was approved for all counties on January 19, 1988). Finally, Indiana submitted computer dispersion modeling which supports the emission limits and other elements of its county specific plans. This modeling is based on a block average interpretation of the SO_2 NAAQS.

USEPA is proposing today to approve under parallel processing Indiana's SO_2 plans for the eight counties listed above. This proposed approval specifically includes (1) the source-specific emission limits and other requirements in Indiana's county-specific rules and (2) the 6.0 lbs/MMBTU emission limit in 325 IAC 7–1–2 which is applicable to all other sources not specifically listed in the county-specific rules (except the sources described by Footnote 3). Under USEPA's parallel processing procedures, these county-specific rules must be fully State adopted, enforceable, and submitted as such as a revision to Indiana's SO_2 SIP before USEPA can take final rulemaking action to approve them. Proposed action on the plans for the remaining seven counties (Dearborn, Floyd, Gibson, Lake, Morgan, Porter, and Warrick Counties) will be contained in future **Federal Register** notices. Indiana has also requested that USEPA redesignate under Section 107 of the Act a subpart of the Marion County SO_2 primary nonattainment area to attainment. USEPA has reviewed Indiana's redesignation request [10] and is proposing to approve it if the State submits certain compliance information during the public comment period.

A short discussion of each county and USEPA's proposed actions follow. Additionally, technical support documents more fully explaining each plan and the Marion County redesignation are available at the addresses listed in the front of this notice.

Jefferson County

On January 27, 1981, USEPA disapproved 325 IAC 7–1 for Jefferson County because the State did not demonstrate that the 6.0 lbs/MMBTU emission limit within it protected the SO_2 NAAQS (46 FR 8473). On April 15, 1982, Indiana submitted in an operating permit source-specific emission limits for the Indiana-Kentucky Electric Corporation (IKEC)—Clifty Creek Station in Jefferson County of 7.52 lbs/MMBTU and 269,900 lbs/3-hour. The general limit of 6.0 lbs/MMBTU in 325 IAC 7–1 continued to apply to all other sources in the county. Modeling was submitted which demonstrates that the combination of the 7.52 lbs/MMBTU and 6.0 lbs/MMBTU emission limits (when coupled with an appropriate stack-test

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deficiencies prior to the State's final adoption of the rule. If the State's rule, as finally adopted, is substantially identical to the proposed rule, then USEPA will take final action on the rule shortly following its submittal to USEPA. On the other hand, if the final rule is substantially different than the proposed rule, then USEPA may publish a rulemaking notice reproposing action, as necessary.

[7] For the exact language of 325 IAC 7–1–3.1, see 52 FR 27017 (July 17, 1987).

[8] Although the rule contains a 30-day averaging compliance methodology for certain sources and monthly averaging for others, for purposes of this notice, this combination of methodologies will be referred to as "30-day averaging".

[9] Indiana has proposed for public comment recodifying its rules from Title 325 to Title 326. All rules in today's notice may be codified under Title 326 when submitted instead of Title 325, depending upon the State's final action on them. This in no way affects the substance of the rules, and USEPA will take final action upon them using the codification in which they are promulgated by the State and submitted.

[10] USEPA's redesignation policy for SO_2 is found (1) in an April 21, 1983, memorandum from Sheldon Meyers, Director, Office of Air Quality Planning and Standards, (2) in a December 23, 1983, memorandum from G.T. Helms, Chief, Control Programs Operation Branch, and (3) in USEPA's July 8, 1985, Stack Height Regulations (50 FR 27892). The redesignation request for Marion County was reviewed against the following criteria:

A. The most recent eight consecutive quarters of quality assured, representative (i.e., reflects maximum, worst-case impacts under maximum allowable source operation) air quality data must show no violations of the applicable NAAQS;

B. There must be evidence of implementation (i.e., compliance certifications) of the USEPA fully-approved control strategy;

C. There must be a reference modeled attainment demonstration at the USEPA-approved emission limits;

D. The redesignation must not result in a relaxation in the SIP, unless the State demonstrates that the NAAQS are still assured with the relaxation; and

E. The redesignation must be consist with USEPA's July 8, 1985, Good Engineering Practice (GEP) Stack Height Regulations, which implement the stack height provisions of Section 123 of the Act.

USEPA's July 8, 1985, stack height regulations apply to stacks (and sources) which came into existence and dispersion techniques implemented on or after December 31, 1970. Stack height credit for the purpose of establishing an emission limitation is restricted to good engineering practice, i.e., the greater of 213 feet or the good engineering practice (GEP) formula height. Credit for merged stacks is generally prohibited, with the following four exceptions:

(1) where total plantwide allowable SO_2 emissions do not exceed 5000 tons per year,

(2) where the stack was originally designed and constructed with merged gas streams,

(3) where such merging was before July 8, 1985, and was part of a change in operation that: (i) included the installation of emissions control equipment or was carried out for sound economic or engineering reasons, and (ii) did not result in an increase in the emission limitation or (if no limit was in existence prior to merging) in the actual emissions, or

(4) where such merging was after July 8, 1985, and was part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions for the pollutant affected by the change in operation.

compliance methodology) protects the SO_2 NAAQS both in Indiana and the neighboring State of Kentucky.

On February 4, 1987, USEPA proposed to disapprove this plan for Jefferson County based on: (1) the 30-day fuel averaging compliance test method, (2) the lack of support for a "lbs/3-hour" limits, and (3) the uncertainty concerning the effect of USEPA's July 8, 1985, stack height regulations on the Jefferson County plan, i.e., whether to allow credit for merged stacks while disapproving the overall emission limit. Indiana responded to this proposed disapproval as follows:

(1) On May 27, 1987, Indiana submitted for parallel processing 325 IAC 7–1–13.

The rule revised the State's emission limits for Clifty Creek by eliminating the "lbs/3-hour" limit while maintaining the 7.52 lbs/MMBTU limit. It also contains a 6.0 lbs/MMBTU emission limit for Madison State Hospital. This rule has been preliminarily adopted by the Indiana Air Pollution Control Board (IAPCB) on April 29, 1987. (325 IAC 7–1–13 was subsequently adopted by the Board on September 2, 1987, and was forwarded to the Indiana Attorney General's office, in keeping with the Indiana regulatory adoption process.)

(2) On June 26, 1987, Indiana withdrew, as a SIP revision request, its previous Jefferson County plan.

(3) On October 21, 1987, Indiana submitted a revised compliance test method rule (325 IAC 7–1–3.1) which, as discussed earlier, USEPA has approved.

In reviewing the State's plan, USEPA checked to assure that the modeling was appropriately performed, including the use of appropriate stack parameters. It also determined that the SO_2 NAAQS are assured in the adjoining State (Section 110(a)(2)(E) of the Act), and the PSD SO_2 increment is protected.

The modeling techniques used in the demonstration supporting this revision as based on the modeling guidelines in place at the time the analysis was performed, i.e., USEPA's 1978 guidelines. Since that time, USEPA has promulgated a revision to the guidelines. Because the modeling was completed prior to the September 9, 1986, date of publication of the revised guidance, USEPA can accept the Jefferson County analysis as it stands.

The modeling also conforms to USEPA's July 8, 1985, stack height regulations.[11] PSD increment consumption is not an issue in this revision, because the revision establishes Federal emission limits where none now exist. Thus, it is not expected to increase actual (baseline) emissions and does not consume PSD increment. See 45 FR 52735 (August 7, 1980). Note, the emission limits for IKEC's Clifty Creek, by far the largest source in the county, are significantly lower than its former actual highest emission rate, i.e., greater than 9.5 lbs/MMBTU. As to the interstate impact of the plan, it protects both the NAAQS and the PSD increments in the neighboring State of Kentucky, the only State within 50 kilometers (km), which is the normal range for USEPA's reference models.[12]

Thus, Indiana's submittals resolve the deficiencies cited by USEPA in its proposed disapproval. USEPA is proposing to approve for Jefferson County preliminarily adopted regulation 325 IAC 7–1–13, the 6.0 lbs/MMBTU emission limit in 325 IAC 7–1–2 for the remainder of the applicable sources, and Indiana's overall SO_2 plan for that county.

La Porte County

On June 6, 1983, the State submitted a La Porte County SO_2 plan, along with a modeling analysis. Although the modeling analysis predicted the plan would assure attainment of the NAAQS throughout most of the County, it did predict violations of the 24-hour primary NAAQS over Lake Michigan, over a yacht basin, and over land near the bank of the yacht basin. Based on the modeled violations and the 30-day average compliance method, USEPA proposed to disapprove the existing SIP for La Porte County of February 4, 1987.

In response to the February 4, 1987, proposal, on June 26, 1987, Indiana withdrew the La Porte County plan. In its place, the State submitted (1) a revised compliance test method rule (325 IAC 7–1–3.1) on October 21, 1987 (approved on January 19, 1988) and (2) for parallel processing, revised source-specific SO_2 limits for sources in La Porte County (325 IAC 7–1–12) on May 27, 1987. Rule 325 IAC 7–1–12 had been preliminarily adopted by the IAPCB on April 29, 1987. On June 18, 1987, Indiana submitted technical materials supporting the revised La Porte County limits. Rule 325 IAC 7–1–13 was subsequently adopted by the Board on September 2, 1987, was forwarded to the Indiana Attorney General's office, in keeping with the Indiana regulatory adoption process, and was submitted to USEPA on October 26, 1987. The September 2, 1987, version of Rule 325 IAC 7–1–13 is the one USEPA is proposing for parallel processing today.

The revised emission limits are:

(1) Indiana State Prison (3 coal boilers—5.12 lbs/MMBTU; (1 oil boiler)—1.60 lbs/MMBTU.

(2) Westville Correctional Center (3 coal boilers)—6.00 lbs/MMBTU.

(3) Allis Chalmers (3 oil boilers)—1.60 lbs/MMBTU.

(4) Northern Indiana Public Service Company (NIPSCO)—Michigan City Plant; (Unit 12)—6.0 lbs/MMBTU; (Units 4, 5, and 6)—0.74, 1.11, or 2.2 lbs/MMBTU, depending, respectively, on whether three, two, or one of the three boilers are in simultaneous operation at any time on a given day.

NIPSCO is also required to maintain a log of the hourly operating status of Units 4, 5, and 6, and to report which boilers are in operation each day on a quarterly basis. In addition, records of the daily average sulfur content and SO_2 emission rate are to be submitted quarterly for each day on which at least two units operate.

On February 1, 1988, Indiana clarified how it intends its rules to be enforced where they contain differing emission limits for a given unit at a source, depending on which of various overall operating scenarios are in effect at a given time at that source. This concept of differing emission limits depending upon the number of units operating is included in the rule for NIPSCO—Michigan City, as described above, and for various other sources in Marion and

[11] On December 2, 1985, and January 2, 1986, Indiana submitted justification for the physical stack height credit and stack merging credit used in its computer modeling attainment demonstration of Jefferson County. In 1978 IKEC replaced its three 207-meter stacks at Clifty Creek with two 300-meter stacks. Indiana's modeling appropriately (1) limited the stack height to the creditable height of the pre-1970 stacks of 207 meters and (2) allowed credit for merging the three stacks into two because the merging was carried out in conjunction with the installation of pollution control equipment and did not result in an increase in actual emissions (i.e., the proposed, post-merging allowable emission limit is less than the pre-merging actual emission value). See Footnote 10(E)(3).

[12] Kentucky petitioned the Administrator in 1979 under Section 126 to determine if Clifty Creek was causing or substantially contributing to violations of the SO_2 NAAQS in Kentucky (44 FR 29495, May 21, 1979). USEPA held a hearing on Kentucky's petition on June 19, 1979. USEPA anticipates proposing in the **Federal Register** its determination on Kentucky's petition after it fully acts on a plan for Jefferson County. Even so, USEPA will review and revise its action on Clifty Creek if its final determination on Kentucky's Section 126 petition conflicts with its action on the Jefferson County plan.

New York, Pennsylvania and Maine also petitioned USEPA under Section 126 in relationship to IKEC's Clifty Creek and several other Indiana sources. These States petitioned USEPA to consider the aggregate effect of SO_2 emissions from several sources, including Clifty Creek, on the particulate levels within their States. As stated before, the Agency made a final determination on this petition in the December 10, 1984, **Federal Register** (49 FR 48152), and the reader is referred to this determination for responses to the issues raised in this petition.

Vigo Counties, which are discussed later in today's notice.

1. Indiana informed USEPA that there is nothing in its rule to preclude sources from switching from one scenario to another within an hour. However, as a practical matter due to coal supplies and the physical limitations of facilities, the sources will not be switching from one scenario to the next each hour, each day, or possibly at all.

2. Indiana does not require any additional reporting requirements for these types of sources beyond those in the rules themselves. Indiana feels that its notification, recording, and reporting requirements in its rules are sufficient to provide an instantaneous method to determine the appropriate applicable emission limit at any given time. For example, see 325 IAC 7-1-3.1(a) and 7-1-12(a)(4)(D).

3. Indiana intends to use the last [most recent] 30 days of daily rolling weighted average to determine compliance with the 30-day average portion of its compliance SO_2 rule [325 IAC 7-1-3.1(c)] for each intermittent operating scenario, if 30 days of data or more are available for that scenario within the last 90 days. If 30 days of data are not available for a given scenario within the last 90 days, then compliance for that scenario is determined using all available days under that scenario from the last 90 days of rolling weighted average data to determine compliance under the "30-day" average portion of its compliance SO_2 rule.

USEPA has reviewed these clarifications, finds them approvable, and is proposing to enforce 325 IAC 7-1 based on the State's intent, as set out in its February 1, 1988, letter. USEPA's primary method of compliance remains the stack test method.

Indiana submitted several dispersion modeling analyses in support of these SO_2 emission limitations. Detailed modeling was performed using the Industrial Source Complex Short-Term (ISCST) model. Indiana found that emissions from the Westville Correctional Center (located 22 km from NIPSCO) and Allis Chalmers (located 19 km from NIPSCO) do not interact substantially with NIPSCO. Emission limits for these facilities, therefore, were determined based primarily upon their own emissions and do protect the NAAQS.

NIPSCO—Michigan City and the Indiana State Prison do interact with each other and, therefore, were modeled together. From this modeling, the emission limits in the State's plan were developed to protect the SO_2 NAAQS, including modeling which demonstrates that the NAAQS are protected under each of the three NIPSCO—Michigan City operating scenarios. It should be noted that because Units 4, 5, and 6, at NIPSCO—Michigan City are of identical capacity and are served by identical, essentially co-located stacks, the limits for these Units produce equivalent impacts, regardless of which Units are involved. Thus, the modeling results for each scenario, e.g., Unit 4 operating while Units 5 and 6 are not versus Unit 6 operating while Units 4 and 5 are not, are also equivalent.

Receptors in this modeling were also placed in the State of Michigan, the only other State nearby. The modeling predicted that the SO_2 NAAQS are protected in Michigan; and, thus, the interstate impact of the La Porte County SO_2 plan has been adequately addressed under Section 110(a)(2)(E) of the Act.

As for the PSD requirements, PSD increment consumption is not an issue in this revision, because the revision establishes Federal emission limits where none now exist. Thus, it is not a relaxation which triggers PSD review. Also the new emission limits for all sources (except for NIPSCO Unit 12) [13] are either equal to or more stringent than their previous State-allowable emission levels.

Indiana's submittals resolve the deficiencies cited by USEPA in its proposed disapproval. Thus, USEPA is proposing to approve for La Porte County the September 2, 1987, Board-adopted regulation 325 IAC 7-1-12 (as clarified by its February 1, 1988, letter); the 6.0 lbs/MMBTU emission limit in 325 IAC 7-1-2 for the remainder of the applicable sources; and Indiana's overall SO_2 plan for that county.

Marion County

On March 3, 1983, August 17, 1983, March 21, 1984, March 28, 1984, and April 6, 1984, Indiana submitted various portions of its Marion County SO_2 plan, which consisted of site-specific limits for 30 sources, with the remaining sources limited by the general 6.0 lbs/MMBTU emission limit in 325 IAC 7-1. USEPA proposed to disapprove this plan on February 4, 1987, due to the 30-day averaged fuel sampling compliance test method and unsupported stack height credit used in the State's analysis. Indiana withdrew this plan from further USEPA consideration on June 26, 1987.

Indiana submitted a revised plan, as follows:

(1) On May 27, 1987, Indiana submitted for parallel processing revised source-specific emission limits, 325 IAC 7-1-9. These had been preliminarily adopted by the Indiana Air Pollution Control Board (IAPCB) on April 29, 1987, and adopted by the Board on September 2, 1987. All applicable sources not specifically limited by 325 IAC 7-1-9 would be limited by the general 6.0 lbs/MMBTU emission limit in 325 IAC 7-1-2.

(2) On October 21, 1987, Indiana submitted a revised compliance test method rule (325 IAC 7-1-3.1), which, as discussed earlier, USEPA has approved. Indiana's May 27, 1987, submittal stated that this rule would apply in Marion County.

The site-specific emission limits require 28 facilities in Marion County to meet source-specific limits for SO_2, both in lbs/MMBTU (or lbs/ton) and lbs/hour. These emission limits range from 0.5 lbs/MMBTU to 6.0 lbs/MMBTU, except for sources currently not operating which received a 0.0 lbs/MMBTU limit. For three additional sources (Indianapolis Power and Light Company (IPALCO)—Stout, IPALCO—Perry K, and Allison Gas Turbine Operations Plant 8 (AGT)), variable limits were given. These limits vary from one fixed limit to another, depending upon the boilers operating at any given time. (This is similar to the NIPSCO—Michigan City emission limits described earlier in the LaPorte County section of this notice and compliance with these variable limits in Marion County is clarified by the same February 1, 1988, letter discussed earlier.) The rule establishes one set of limits as a base case and allows operation under one of the alternative sets of limits only upon prior notification to the City of Indianapolis or the State. Source-specific reporting requirements to determine the appropriate emission limits for any given time are also included.

IPALCO—Stout, AGT, and National Starch and Chemical are required to construct new or modify existing stack(s).[14] USEPA has analyzed the

[13] USEPA conditionally approved a 6.0 lbs/MMBTU emission limit for Unit 12 on March 12, 1982 (47 FR 10813). This limit was set aside in *IMEC v. USEPA*. It is USEPA's understanding that Indiana issued an operating permit to NIPSCO for Unit 12 limiting it to 5.3 lbs/MMBTU, but this was not submitted as a SIP revision. Therefore, for State purposes only, Indiana looked at the increase from 5.3 lbs/MMBTU to 6.0 lbs/MMBTU for Unit 12 and calculated that the State's PSD increment is still protected with this increase. For Federal purposes, no increment is consumed.

[14] IPALCO will install nozzles on the two stacks at Stout which serve Units 50 and 60. These nozzles increase the physical stack heights from 76.2 meters to 79.9 meters and decrease the exit diameters from 3.70 meters to 1.98 meters, which may result in an increase in plume rise. No credit for either the greater physical stack height or the possible enhanced plume rise was assumed by the State in

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changes in stack configuration required by the regulation and finds that they comport with the July 8, 1985, stack height regulations for implementing the requirements of Section 123 of the Act.

Compliance with the emission limits in the rule is required at the time of State promulgation for most of the sources, but IPALCO—Stout, IPALCO—Perry K, AGT, and National Starch and Chemical have source-specific compliance plans extensions which extend up to 30 months from the date of State adoption of the Marion County SO_2 regulation, 325 IAC 7–1–9. USEPA accepts that these compliance dates are as expeditious as is now practicable.

The emission limits in Indiana's rule were developed with computer modeling. Because some sources are located in the urbanized Indianapolis area and other sources are located in the rural portions of the County, a hybrid modeling approach was developed for modeling portions of Marion County. First, the urban sources were modeled with RAM, the rural sources were modeled with ISCST over a common receptor grid, and the results were then added together. The predicted data were then adjusted to account for source interactions, i.e., concentrations dominated by rural sources were recalculated by remodeling the rural sources with RAM, and concentrations dominated by rural sources were recalculated by remodeling the urban sources with ISCST. These multiple modeling runs predict that the SO_2 NAAQS will be assured at the new emission limits.

It should be noted that the modeling for IPALCO—Stout, IPALCO—Perry K, and AGT examined each emission limitation scenario separately. The State's analysis demonstrates that the base case emission limit scenario will produce the maximum ambient impacts. By the implication, if a plant switches to another scenario within a given 3-hour or 24-hour averaging time, then the resulting ambient impact for that averaging period would not increase. Consequently, the modeling adequately demonstrates attainment for the multiple emission limitation scenarios.

The modeling technique used in the demonstration supporting this revision are based on the modeling guidelines in place at the time the analysis was performed, i.e., USEPA's 1978 guidelines. Since that time, USEPA has promulgated a revision to the guidelines. Because the modeling was completed prior to the September 9, 1986, date of publication of the revised guidance, USEPA accepts the Marion County analysis as it stands.

Approval of this plan will not appreciably affect any other State's SO_2 concentrations, because of the distance from Marion County to any other State; nor will it effect the PSD increments, because Marion County is a designated nonattainment area for SO_2, and approval of the plan will establish new Federal emission limits were none, effectively, now exist.

Indiana's submittals resolve the deficiencies cited by the USEPA in its proposed disapproval. Thus, USEPA is proposing to approve for Marion County the September 2, 1987, Board-adopted regulation 325 IAC 7–1–9 (as clarified by its February 1, 1988, letter); the 6.0 lbs/MMBTU emission limit in 325 IAC 7–1–2 for the remainder of the applicable sources; and Indiana's overall SO_2 plan for that county.

Marion County Redesignation Request

USEPA originally proposed to approve the State's redesignation request for five townships (Franklin, Lawrence, Pike, Warren, and Washington) in Marion County (November 16, 1983, 48 FR 52095). On February 4, 1987 (52 FR 3452), USEPA reproposed to disapprove the redesignation request for the five townships because the revised operating permits for the eight major sources in these townships allowed compliance to be based on a 30-day average. This compliance methodology is not consistent with the demonstration of attainment of the short-term 3-hour and 24-hour NAAQS.

In its April 29, 1987, May 27, 1987, and October 21, 1987 submittals, however, the State submitted a revised (short-term) compliance test method, 325 IAC 7–1–3.1. The establishment of a short-term compliance method corrects the deficiency cited in the February 1987 **Federal Register** for the townships to be redesignated. Thus, USEPA believes the redesignation of these five townships to attainment is now approvable.

To support its initial redesignation request(s), Indianapolis submitted the ambient SO_2 data from 13 monitors in the City for 1984 and 1985. These data show no violations of the NAAQS. (The 1986 data also show no violations of the NAAQS at the monitors in these five townships.) Additionally, the Indianapolis Air Pollution Control Division certified, based on 1982 data, that the eight major sources in the five townships were in compliance with the proposed emission limitations. As noted above, compliance by the eight sources with their emission limits does ensure the attainment and maintenance of the SO_2 NAAQS in these five townships in Marion County.

However, the State needs to submit updated compliance data that show that all sources in the area to be redesignated are currently in compliance with the emission limits in its revised plan. USEPA proposes to approve Indiana's redesignation request for Marion County, provided updated compliance data are submitted during the public comment period. If such data are not submitted, or if the data show that any source is out of compliance with the new emission limits, then USEPA will disapprove the redesignation request without further proposal.

Posey County

On March 12, 1982, USEPA approved the State's general 6.0 lbs/MMBTU emission limit for all sources in Posey County, except those which are governed by new source review requirements, e.g., Southern Indiana Gas and Electric's (SIGECO) A.B. Brown Plant. On November 1, 1983, Indiana submitted revised limits for the Indiana Farm Bureau Co-op Refinery as a site-specific revision to the Posey County SIP. On February 4, 1987, USEPA proposed to disapprove this site-specific plan based on certain technical deficiencies in the plan for the Indiana Farm Bureau Co-op Refinery and the overall deficiency of the 30-day averaging compliance methodology.

On October 21, 1987, Indiana submitted a revised compliance test method rule (325 IAC 7–1–3.1), which, as discussed earlier, USEPA has approved. On May 4, 1987, Indiana withdrew its request for a site-specific revision for the Indiana Farm Bureau Co-op Refinery. In addition, in response to USEPA's July 8, 1985, promulgation of stack height regulations, Indiana submitted on June 2, 1987, a reanalysis of the SO_2 impact of the A.B. Brown Plant at its formula GEP stack height (455 feet), rather than its actual higher stack height (495 feet).[15] This new analysis, which included other nearby sources such as General Electric—Mount Vernon [16] and the Indiana Farm

its modeling. National Starch will combine the exhaust gas streams from its four boilers into one 52.1 meter stack. While the physical stack height is fully creditable, i.e., it does not exceed the 65 meter *de minimis* height, no credit for the merging of the gas streams was granted. AGT will increase the height of each of its five stacks from 12.2 meters to 18.3 meters. This stack height is fully creditable because it does not exceed the 65 meters *de minimis* height.

[15] There is no "merged stack" dispersion technique issue at A.B. Brown because each unit is served by its own stack.

[16] There are potential "stack" issues at General Electric—Mount Vernon. At this facility, Units 1 through 3 are serviced by one stack and Units 4

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Bureau Co-op Refinery, demonstrated attainment of the SO_2 NAAQS and PSD increments with A.B. Brown emitting at its existing NSPS emission limit and GEP stack height and the other sources emitting at 6.0 lbs/MMBTU. This was demonstrated both in Indiana and in the nearby States of Illinois and Kentucky. Based on this analysis and Indiana's revised compliance methodology, USEPA is proposing to approve the State's Posey County SO_2 plan which consists of the 6.0 lbs/MMBTU emission limit in 325 IAC 7–1–2 on all applicable sources. As a part of the Posey County plan, USEPA is also proposing to approve Indiana's determination that the A.B. Brown emission limits and General Electric—Mount Vernon emission limits are not affected by USEPA July 8, 1985, stack height regulations.

Sullivan County

On February 26, 1981, Indiana submitted a source-specific emission limitation of 9.57 lbs/MMBTU for the Indiana & Michigan Electric Company (IMEC)—Breed Station in Sullivan County. On March 23, 1984 (49 FR 11086), USEPA approved the emission limit for Breed, but "took no action" on the 30-day averaging compliance method. On February 4, 1987 (52 FR 3452), USEPA proposed to disapprove the SIP for Breed based on the 30-day averaging compliance methodology. On June 26, 1987, Indiana withdrew this plan from further consideration.

To replace it, on May 27, 1987, Indiana submitted for parallel processing new proposed regulation 325 IAC 7–1–14, which includes the 9.57 lbs/MMBTU limit for Breed and a 1.2 lbs/MMBTU limit for Hoosier Energy—Merom, which is equivalent to the NSPS emission limit for this source.[17] The APCB adopted this regulation on September 2, 1987. On October 21, 1987, Indiana submitted a revised compliance test method rule (325 IAC 7–1–3.1), which, as discussed earlier, USEPA has approved.

Indiana's submittals resolve the deficiencies cited by USEPA in its proposed disapproval.[18] USEPA is proposing to approve for Sullivan County the September 2, 1987, IAPCB-adopted regulation 325 IAC 7–1–14, the 6.0 lbs/MMBTU emission limit in 325 IAC 7–1–2 for the remainder of the applicable sources, and Indiana's overall SO_2 plan for that county.

Vermillion County

On March 12, 1982 (47 FR 10813), USEPA approved the State's general limit of 6.0 lbs/MMBTU for all sources in Vermillion County. On September 2, 1983, however, USEPA notified the State that recent modeling data indicated violations of the SO_2 NAAQS. On May 11, 1984, the U.S. Court of Appeals for the Seventh Circuit set aside the emission limits in USEPA'S approval of this plan in the *IMEC* case.

On February 4, 1987, USEPA proposed to disapprove the 6.0 lbs/MMBTU emission limit for Vermillion County because of the modeled predicted violations of the NAAQS and the State's general 30-day average compliance method. On July 31, 1987, Indiana withdrew this plan from further USEPA consideration.

In its place, on July 17, 1987, the State of Indiana submitted for parallel processing 325 IAC 7–1–15, which contains source-specific SO_2 emission limitations for sources in Vermillion County, along with technical support materials. A slightly revised version of 325 IAC 7–1–15 was subsequently adopted by the Board on October 1, 1987; was forwarded to the Indiana Attorney General's office, in accordance with the Indiana regulatory adoption process; and was submitted to USEPA on October 26, 1987. USEPA is proposing action on the October 1, 1987, version of this rule today. On October 21, 1987, Indiana submitted its revised compliance test method rule, 325 IAC 7–1–1–3.1, which USEPA has approved.

Proposed State regulation 325 IAC 7–1–15 contains the following emission limitations:

(1) Public Service Indiana (PSI)—Cayuga: 4.40 lbs/MMBTU, with compliance required by March 1, 1989. An initial interim limit of 5.83 lbs/MMBTU applies prior to December 31, 1988, and a second interim limit of 4.84 lbs/MMBTU applies from December 31, 1988, until March 1, 1989.

(2) Newport Army Ammunition—1.6 lbs/MMBTU.

(3) Eli Lilly—Clinton Laboratories (Boiler C31–1): 4.72 lbs/MMBTU; (Boilers C21–1, C21–2, C21–3, C21–4): 0.36 lbs/MMBTU.

USEPA has analyzed the State's technical support data and agrees that the above emission limits at final compliance protect the primary and secondary SO_2 NAAQS. The interim limit for PSI—Cayuga of 5.83 lbs/MMBTU protects the primary SO_2 NAAQS, but not the secondary. Thus, immediate protection of the primary SO_2 NAAQS is assured and a reasonable time is provided to protect the secondary SO_2 NAAQS. As for the PSD increment, the final compliance emission limit is less than the previously applicable State limit of 6.0 lbs/MMBTU (no Federal limit is applicable in this county), and, therefore, no increases in actual emissions are expected to result from adoption of this rule. Thus, no PSD emission increment will be consumed by the revised plan.

To satisfy the interstate requirements of Section 110(a)(2)(E) of the Act, the State's modeling anaysis included an interstate analysis of the only other State (Illinois) within 50 km of Vermillion County. (The ISCST model used in this analysis is generally limited to 50 km.) No violations of the SO_2 NAAQS were predicted to occur in Illinois due to emissions from Vermillion County.

Indiana's submittals resolve the deficiencies cited by USEPA in its proposed disapproval. USEPA is proposing to approve for Vermillion County the October 1, 1987, IAPCB-adopted regulation 325 IAC 7–1–15, the 6.0 lbs/MMBTU emission limit in 325 IAC 7–1–2 for the remainder of the applicable sources, and Indiana's overall SO_2 plan for that county.

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through 6 by another. Indiana certified that the stack serving Units 1 through 3 was in existence prior to December 31, 1970, and therefore, the stack height and merging is creditable under USEPA's July 8, 1985, stack height regulations. The stack serving Units 4 through 6 was originally designed and constructed to serve multiple units, is less than GEP formula height, and, thus, it too is creditable.

Although USEPA is proposing that credit for this source comports with USEPA's July 8, 1985, stack height regulations, certain provisions in these July 8, 1985, regulations have been remanded to USEPA for further proceedings consistent with the U.S. Court of Appeals for the D.C. Circuit opinion in *Natural Resources Defense Council (NRDC) v. Thomas* (D.C. Cir. No. 85–1488 et al. (January 22, 1988)). For a further discussion of this opinion and how it applies to the General Electric—Mount Vernon's merged stacks, please see the *Miscellaneous Stack Height Issues* section of today's notice. If USEPA's response to the *NRDC* remand modifies the "originally designed and constructed" provision (Footnote 10 E.(2) of today's notice) in USEPA's July 8, 1985 regulations, USEPA will notify the State of Indiana whether the emission limit for General Electric—Mount Vernon must be reexamined for consistency with the modified provision. USEPA's proposed approval for General Electric—Mount Vernons' emission limit today is intended to avoid a delay in the establishment of federally enforceable emission limits for all sources in Posey County until this issue is resolved.

[17] There are potential stack height and merged stack issues at Hoosier Energy—Merom under *NRDC*. For a further discussion of this opinion and how it applies to Hoosier Energy—Merom, please see the *Miscellaneous Stack Height Issues* section of today's notice.

[18] The modeling technique used in the demonstration supporting this revision are based on the modeling guidelines in place at the time analysis was performed, i.e., USEPA's 1978 guidelines, since that time, USEPA has promulgated a revision to the guidelines. Because the modeling was completed prior to the September 9, 1986, date of publication of the revised guidance, USEPA accepts the Sullivan County analysis as it stands.

Vigo County

On May 13, 1982 (47 FR 20583), USEPA approved Indiana's Part D SO_2 SIP for Vigo County. On March 13, 1984, USEPA approved a site-specific revision to this plan for a facility owned by the Sisters of Providence. On March 21, 1984, Indiana submitted minor revisions to its Vigo County plan for six facilities, without any technical support.

The May 11, 1984, *IMEC* decision did not specifically set aside USEPA's May 13, 1982, and March 13, 1984, approvals. However, the logic of the Court's decision applies to these Vigo County approvals, because USEPA did not act on the State's 30-day compliance methodology applicable to Vigo County sources in these rulemakings as well. Therefore, based on the logic of the Court's decision, the technical deficiencies with Indiana's March 21, 1984, revised plan, and the applicable 30-day compliance methodology, USEPA proposed to disapprove the Vigo County SO_2 plan on February 4, 1987. On June 26, 1987, Indiana withdrew this plan.

To replace it, Indiana submitted, for parallel processing, a set of source-specific emission limitations, 325 IAC 7–1–10.1, on May 27, 1987, and a revised compliance test method rule, 325 IAC 7–1–3.1, on October 21, 1987, (approved on January 19, 1988). Rule 325 IAC 7–1–10.1 was subsequently adopted by the Board on September 2, 1987, and was forwarded to the Indiana Attorney General's office, in accordance with the Indiana regulatory adoption process. Technical support materials were submitted to USEPA on October 8, 1987, and October 13, 1987, and February 1, 1988. On February 1, 1988, Indiana also submitted minor modifications to 325 IAC 7–1–10.1, which relate to two sources, Pfizer and Wabash Fibre Box. This rule was preliminarily adopted by the Board on February 3, 1988. USEPA is proposing the February 3, 1988, version of 325 IAC 7–1–10.1 for parallel processing today.

The proposed State regulation consists of emission limitations for 25 companies in the county, ranging from 0.36 lbs/MMBTU to 6.00 lbs/MMBTU. The largest SO_2 source in the county, Public Service Indiana's (PSI) Wabash River Station, is limited to 4.04 lbs/MMBTU. These limits are identical to those approved by USEPA on May 13, 1982, and March 13, 1984, with the addition of the minor revisions to the limits in the March 21, 1984, submittal. However, the regulations approved on May 13, 1982, for Vigo County also contained site-specific limits restricting the total load capacity (MMBTU/hour) of each source. These load capacity limits included a derating of one source from its maximum design rating, the PSI—Wabash River Station. The September 2, 1987, version of 325 IAC 7–1–10.1 does not contain such a derating. This rule also does not contain any reporting requirements beyond those which currently exist in the general rule, 325 IAC 7–1.

Indiana submitted dispersion modeling analyses which demonstrate that the SO_2 emission limits ensure attainment and maintenance of the SO_2 NAAQS, even when PSI—Wabash River Station is operating at its maximum design rate, 7768.6 MMBTU/hour. It should be noted that the rule restricts the capacity of Boilers 5, 6, and 7 at Pfizer if Boiler 8 is operating and limits the Cleaver Brooks Boiler at Wabash Fibre Box to 0.51 lbs/MMBTU (as opposed to 2.36 lbs/MMBTU) if the Union Iron Boiler is also operating. The modeling for Pfizer and Wabash Fibre Box examined each emission limitation/operating load scenario separately. The State's analysis demonstrates that the base case emission limit scenarios will produce the maximum ambient impacts. By implication, if either plant switches to another scenario within a given 3-hour or 24-hour averaging time, then the resulting ambient impact for that averaging period would not increase. Consequently, the modeling adequately demonstrates attainment under the two load capacity scenarios for Pfizer and the two emission limitation scenarios for Wabash Fibre Box. Additionally, on February 1, 1988, Indiana notified USEPA that the Union Iron Boiler at Wabash Fibre Box is no longer in operation and (1) the Vigo County Air Pollution Control Agency will be revoking the operating permit for this boiler and (2) Indiana is revising its Vigo County rule accordingly, thus removing one of the two sources with multiple scenarios from the Vigo County plan. In addition, Indiana is modifying its Vigo County rule to require additional reporting requirements for Pfizer, as contained in revised rule 325 IAC 7–1–10.1, which was preliminarily adopted by the Board on February 3, 1988, and is being proposed today under "parallel processing".

The modeling was also reviewed for consistency with USEPA's July 8, 1985, stack height regulations and was found to be consistent with these regulations.[19] The State's modeling indicated that the proposed emission limitations would not cause any violations of the SO_2 NAAQS in the only other State, Illinois, within 50 km. A PSD increment analysis was not required given the nonattainment status of Vigo County and the fact that no changes in the State's allowable emission limits are being requested.

Indiana's submittals resolve the deficiences cited by USEPA in its proposed disapproval. Thus USEPA is proposing to approve for Vigo County the February 3, 1988, version of regulation 325 IAC 7–1–10.1, the 6.0 lbs/MMBTU emission limit in 325 IAC 7–1–2 for the remainder of the applicable sources, and Indiana's overall SO_2 plan for Vigo County.

Wayne County

On June 26, 1979, Indiana submitted a revised SO_2 SIP for Wayne County to USEPA. The sources in the County were subject to the general 6.0 lbs/MMBTU emission limit in the State rule. No modeled attainment demonstration was submitted for the 6.0 lbs/MMBTU limit in Wayne County.

On March 12, 1982 (47 FR 10813), USEPA disapproved Indiana's plan for Wayne County. USEPA cited the lack of technical support for the State's claim that the 6.0 lbs/MMBTU limit would assure attainment and maintenance of the NAAQS, especially in the vicinity of the municipally owned electrical generating station in Richmond, Richmond Power and Light (RPL). On March 26, 1984, USEPA notified the

[19] The major source affected by the stack height regulation is PSI—Wabash River. In 1981, PSI replaced six stacks with one, taller stack. The actual stack height equals the applicable GEP formula height and is, therefore, creditable under the July 8, 1985, regulations. Credit for the merged stacks is also creditable based on (1) a sound engineering justification provided by Indiana and PSI that space limitations at the facility precluded the construction of six new replacement stacks, and (2) the fact that there is no increase in SO_2 emissions.

USEPA today proposes to approve the emission limit for PSI—Wabash River on the ground that it satisfies the applicable requirements of Section 110 and Part D of the Clean Air Act. However, USEPA today provides notice that the emission limit is subject to review and possible revision as a result of *NRDC*. In that January 22, 1988, opinion, the U.S. Court of Appeals for the D.C. Circuit held that USEPA had not adequately explained grandfathering stack height credit for sources which raise their stacks prior to October 1, 1983, up to the height permitted by GEP formula height [40 CFR 51.100(kk)(2)], and it remanded this provision to USEPA for further proceedings consistent with its opinion. The emission limit for PSI—Wabash River involves credit pursuant to this provision. Modeling to predict the ambient air quality resulting from PSI—Wabash River's emission limit was completed in advance of *NRDC*. If USEPA's response to the *NRDC* remand modifies 40 CFR 51.100(kk)(2), USEPA will notify the State of Indiana whether the emission limit for PSI—Wabash River must be reexamined for consistency with the modified provision. USEPA's proposed approval for PSI—Wabash River's emission limit is intended to avoid delay in the establishment of federally enforceable emission limits for all sources in Vigo County.

State that, pursuant to section 110(a)(2)(H) of the Act, the SO_2 SIP for Wayne County was substantially inadequate. RPL developed a revised strategy for Wayne County which involved replacing its two existing stacks with a single taller stack. Uncertainty concerning USEPA's Stack Height Regulations, however, prevented RPL and the State from finalizing this alternative strategy until after USEPA promulgation of its Stack Height regulations in July 1985.

Indiana withdrew its 6.0 lbs/MMBTU Wayne County plan from further USEPA consideration on June 26, 1987. In its place, on May 27, 1987, the State of Indiana submitted for parallel processing 325 IAC 7–1–11, which is its new SO_2 plan for Wayne County. Technical support for the rule had been earlier submitted by the State on September 30, 1986. Rule 325 IAC 7–1–11 was subsequently adopted by the Board on September 2, 1987, and was forwarded to the Indiana Attorney General's office, in accordance with the Indiana regulatory adoption process. USEPA is proposing for public comment the September 2, 1987, version of this rule today.

The proposed State regulation consists of:

a. Emission Limitations for the 12 large SO_2 sources in Wayne County ranging from 0.3 lbs/MMBTU to 6.0 lbs/MMBTU. RPL is limited to 6.0 lbs/MMBTU, with the requirement that it construct a stack of 325 feet or greater by July 31, 1988. Compliance is to be determined by the requirements of 325 IAC 7–3.1.

b. In addition to the short-term limits above, three sources have additional, more stringent annual average emission limitations, with compliance based on the average sulfur content of the fuel over any 12 consecutive months (325 IAC 7–1–11(c)).

Indiana submitted dispersion modeling analyses which support the SO_2 emission limitations in a. above as protecting the short-term (i.e., 3-hour and 24-hour) SO_2 NAAQS and the SO_2 emission limitations identified in b. above (when combined with the short-term limits for the other sources in the county) as protecting the annual SO_2 NAAQS. The modeling techniques used in the demonstrations supporting this revision are based on the modeling guidelines in place at the time the analysis was performed, i.e., USEPA's 1978 guidelines. Since that time, USEPA has promulgated a revision to the guidelines. Because the modeling was completed prior to the September 9, 1986, date of publication of the revised guidance, USEPA accepts the Wayne County analyses as they stand.

The modeling is based on a 325-foot stack height at RPL. (As noted above, the State regulation requires RPL to replace its present two stacks of less than GEP height with one stack of at least GEP height. The GEP formula height for RPL is 325 feet.) Although the modeling took credit for the greater physical stack height, it did not take credit for the enhanced plume rise due to the combination of the exhaust gas streams (i.e., two co-located 325-foot stacks were modeled instead of one 325 foot stack).

USEPA's stack height regulations require sources wishing to receive credit for stack height increases after October 11, 1983, to provide evidence that the additional height is necessary to avoid downwash-related concentrations raising health and welfare concerns. Such evidence must consist of either site-specific information (i.e, monitored data, citizen or employee complaints, or property damage) that the existing short stack had caused a local nuisance, or a fluid modeling or field study showing both a 40 percent increase in ground-level concentrations due to downwash and an exceedance of the NAAQS or PSD increments, if applicable. If this documentation is provided, then automatic credit for the GEP formula height is granted. RPL's analysis of ambient monitored data concluded that a local nuisance is being caused by downwash from the RPL stacks. RPL cited:

a. A State of Indiana field study conducted in 1979 and 1980 which indentified RPL as the cause of monitored 24-hour exceedances under downwash conditions.

b. A review of ten high 1-hour monitored concentrations (i.e., >0.4 parts per million (ppm)) during 1981–1985. Dispersion modeling of two of these events indicate that downwash was responsible for the elevated concentrations.

c. A review of the five 24-hour and five 3-hour monitored exceedances during 1977–1980. All concentrations were associated with strong wind speeds, neutral stability, and persistent winds blowing from RPL to the monitor, which suggest a downwash problem.

USEPA believes that RPL has sufficiently demonstrated a local nuisance due to building downwash from RPL. USEPA, therefore, is proposing to give credit for a 325 foot stack height in the Wayne County attainment demonstration.

To satisfy the interstate impact requirements of section 110(a)(2)(E) of the Act, Indiana modeled the impact of Wayne County emissions near the Indiana-Ohio border. The modeled impacts from Wayne County sources are less than a quarter of any SO_2 NAAQS. Ohio is the only state within 50 km of Wayne County, Indiana. Thus, sources in Wayne County are not expected to cause a violation of the SO_2 NAAQS in any State.

As for the PSD increment, the portion of Wayne County where the modeled sources are located is currently designated as primary nonattainment for SO_2. Consequently, the PSD baseline date has not been established for this area. A SIP revision consumes PSD increment only if it results in an increase in baseline emissions. Furthermore, the final emission limits are more stringent than or equal to those in the previous SIP and, therefore, are not expected to result in an increase in actual emissions. Consequently, PSD increment consumption is not relevant with respect to the Wayne County SO_2 SIP.

On July 1, 1979, due to the lack of an approved Part D SIP, the Section 110(a)(2)(I) construction ban was imposed in the nonattainment area in Wayne County. If USEPA ultimately approves these rules, then this ban will be lifted.

Indiana's submittals resolve the deficiencies cited by USEPA in its disapproval. USEPA is proposing to approve for Wayne County the September 2, 1987, IAPCB-adopted regulation 325 IAC 7–1–11, the 6.0 lbs/MMBTU emission limit in 325 IAC 7–1–2 for the remainder of the applicable sources, and Indiana's overall SO_2 plan for that county.

Miscellaneous Stack Height Issues

USEPA's July 8, 1985, stack height regulations [20] apply to stacks (and sources) which came into existence and dispersion techniques implemented on or after December 31, 1970. A short discussion of these requirements is included in Footnote 10(E). The county-by-county sections above discuss the stack height credit and/or dispersion techniques (merged stacks) for certain large SO_2 sources in each county. The

[20] Certain provisions of these rules were remanded to USEPA in *NRDC v. Thomas* (D.C. Cir. No. 85–1488 et al. (January 22, 1988)). These are grandfathering stack height credits for sources who raise their stacks prior to October 1, 1983, up to the height permitted by GEP formula height [40 CFR 51.100(kk)(2)], dispersion credit for sources originally designed and constructed with merged or multi-flue stacks, [40 CFR 51.100(hh)(2)(ii)(A)], and grandfathering credit for the refined (H + 1.5L) formula height for sources unable to show reliance on the original (2.5H) formula [40 CFR 51.100(ii)(2)]

remaining affected sources in the eight counties are addressed below.

Sources with stack heights greater than the *de minimis* level of 65 meters (213 feet) are: NIPSCO—Michigan City Units 4, 5, 6, and 12 in LaPorte County; IPALCO—Perry K, IPALCO—Perry W, Indiana Farm Bureau, Citizens Gas and Coke, and Southwest Development Corporation (formerly Indianapolis Rubber and now operated for Pneu-Tech Rubber) in Marion County; General Electric-Mount Vernon—Units 1 through 6 in Posey County; IMEC Breed and Hoosier Energy—Merom in Sullivan County; PSI—Cayuga in Vermillion County; Indiana State University in Vigo County; and Richmond State Hospital in Wayne County.

Of these, Indiana certified that the following stacks were in existence prior to December 31, 1970, and, therefore, are creditable under the policy: NIPSCO—Michigan City Units 4 through 6, IPALCO—Perry K and Perry W, Citizens Gas and Coke, Indiana Farm Bureau, Southwest Development Corporation,[21] General Electric—Mount Vernon (Units 1 through 3), IMEC—Breed, PSI—Cayuga, Indiana State University, and Richmond State Hospital. The stacks for NIPSCO—Michigan City Unit 12 and General Electric—Mount Vernon Units 4 through 6 were found to be less than the applicable GEP formula height and, therefore, creditable.

Finally, for Hoosier Energy—Merom, a reference dispersion modeling analysis was performed assuming the GEP formula height (605 feet), rather than the actual height (700 feet). This analysis demonstrated that the existing NSPS emission limit for Merom is adequate to ensure attainment and maintenance of the SO_2 NAAQS and PSD increments.

Certain sources in the eight counties have plant-wide allowable SO_2 emissions of greater than 5000 tons of SO_2 per year and, therefore, dispersion technique such as merging stacks could be an issue. These are: NIPSCO—Michigan City, IPALCO—Perry K, General Electric—Mount Vernon, IMEC—Breed, Hoosier Energy—Merom, PSI—Cayuga, and Weston Paper (Vigo County).

At NIPSCO—Michigan City, IMEC—Breed, and PSI—Cayuga there is only one unit per stack, so there is no dispersion technique (merged stack) issue. The stacks serving multiple units at IPALCO—Perry K, General Electric—Mount Vernon (Units 1 through 3), and Weston Paper were in existence prior to December 31, 1970, and, therefore, are not at issue. Finally, the stacks serving Units 4 through 6 at General Electric—Mount Vernon and Hoosier Energy—Merom were originally designed and constructed to serve multiple units, and, thus, these too are not at issue.

USEPA is proposing to approve all of the above as meeting the requirements of USEPA's July 8, 1985, stack height regulations. However, for three sources, General Electric—Mount Vernon, PSI—Wabash River, and Hoosier Energy—Merom, provisions under which USEPA is proposing to approve granting credit have been remanded to the USEPA. See *NRDC* and Footnote 20. For General Electric this involves the original design and construction exemption for merged stacks [40 CFR 51.100(hh)(2)(ii)(A)], for PSI it involves the grandfathering of GEP formula height credit for pre-1983 stack height increases [40 CFR 51.100(kk)(2)], and for Hoosier Energy it involves both grandfathering credit for the refined GEP formula height [40 CFR 51.100(ii)(2)], and the original design and construction exemption [40 CFR 51.100(hh)(2)(ii)(A)] for merged stacks.

Although USEPA today proposes to approve the emission limits for these sources on the ground that they satisfy the applicable Section 110 (and Part D for PSI) requirements of the Clean Air Act,[22] USEPA also today provides notice that the emission limits are subject to review and possible revision as a result of *NRDC v. Thomas* (D.C. Cir. No. 85-1488 et al. (January 22, 1988)), where the U.S. Court of Appeals for the D.C. Circuit held that USEPA had not adequately explained certain provisions of its July 8, 1985, regulations (See Footnote 20) and remanded these provisions to USEPA for further proceedings consistent with its opinion. If USEPA's response to the *NRDC* remand modifies the applicable July 8, 1985, provision(s), USEPA will notify the State of Indiana whether the emission limit for General Electric, PSI, and/or Hoosier Energy must be reexamined for consistency with the modified provision. USEPA's proposed approval for these facility's emission limits today is intended to avoid delay in the establishment of federally enforceable emission limits for all sources in Posey, Vigo, and Sullivan Counties, respectively, while awaiting resolution of the *NRDC* remand.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.) If USEPA ultimately disapproves the redesignation, this too will not have a significant economic impact on a substantial number of small entities because it will impose no new requirements on any sources.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects

40 CFR Part 52

Air pollution control, Intergovernmental relations, Intergovernmental relations, Sulfur oxides.

40 CFR Part 81

Air pollution control, Intergovernmental relations, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401-7642.

Dated: December 14, 1987.

Frank M. Covington,

Acting Regional Administrator.

[FR Doc. 88-6560-50 Filed 3-2-88; 8:45 am]

BILLING CODE 6560-50-M

[21] SO_2 emission limits for Southwest Development Corporation are established by means of a new source review construction permit for a gas-fired boiler. See Footnote 3.

[22] USEPA notes that the modeling analyses used to predict the ambient air quality resulting from the General Electric, PSI, and Hoosier Energy emission limits were completed in advance of *NRDC*.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Policies and Actions With Regard to Subsistence Taking of Migratory Birds in Alaska; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed policy statement; extension of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter the Service) extends the comment period on its proposed policies and actions regarding subsistence taking of migratory birds in Alaska. The comment period is being extended at the request of several organizations and individuals in order to provide an opportunity for additional public review and to obtain additional public comments.

DATE: Comments on the proposed policies and actions must be received on or before March 31, 1988.

ADDRESS: Comments may be addressed to: Regional Director, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503. Telephone: (907) 786-3545.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Assistant Regional Director, Refuges and Wildlife (907) 786–3545; or R. David Purinton, Assistant Regional Director, Division of Law Enforcement, (907) 786–3311.

SUPPLEMENTARY INFORMATION: In the December 31, 1987, **Federal Register** (52 FR 49449) the Service gave notice of, and invited public comments on, a proposed policy statement regarding subsistence taking of migratory birds in Alaska during the closed season between March 10 and September 1 required by the 1918 Migratory Bird Treaty Act. The notice stated that comments on the proposed policy had to be received on or before February 29, 1988.

Many requests have been received to extend the comment period. In addition, both written and verbal comments received to date have indicated an apparent lack of understanding by much of the general public of the reasons for the policy and the manner in which it will be implemented. The comment period therefore is being extended for a month to provide opportunity for more thorough public review and submission of comments on the proposed policy.

The Service will use the extended comment period to provide additional information on the proposed policy, particularly to those residents of rural Alaska who will be most affected by the policy. Any comment received on or before March 31, 1988, will be considered in further developing and implementing a program during 1988 and beyond for management of migratory bird resources used for subsistence in Alaska.

Date: February 26, 1988.

Walter O. Stieglitz,

Regional Director, Alaska.

[FR Doc. 88–4602 Filed 3–2–88; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 53, No. 42
Thursday, March 3, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Grider Fire Recovery; Klamath National Forest, Siskiyou County, CA; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service will prepare an environmental impact statement for a proposal to implement fire recovery projects on a portion of the Grider/Lake fire area on the Oak Knoll Ranger District; this EIS will encompass a portion of the Grider released-roadless area.

A range of alternatives for this proposal will be considered. One of these will be to do no recovery activities in the project area. Other alternatives will be considered ranging from intensive recovery (including salvage of timber, watershed, fisheries, wildlife and visual projects) to low intensity recovery (minimal projects).

Federal, State, and local agencies; and other individual or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.
2. Identification of issues to be analzyed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.
4. Determination of potential cooperating agencies and assignment of responsibilities.

The Fish and Wildlife Service, Department of the Interior, will be invited to participate as a cooperating agency to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist in the potential project area.

The Forest Supervisor will hold a public meeting at the Forest Supervisors Office, large conference room, 1312 Fairlane Road, Yreka, California, on March 9, 1988, at 7:00 p.m. This meeting will be held in conjunction with the Kangaroo EIS.

Robert L. Rice, Forest Supervisor, Klamath National Forest, Yreka, California is the responsible official.

The analysis is expected to take about 4 months. The draft environmental impact statement should be available for public review by June, 1988. The final environmental impact statement is scheduled to be completed by August, 1988.

Written comments and suggestions concerning the analysis should be sent to John G. Greer, District Ranger, Oak Knoll Ranger District, Klamath National Forest, 22541 Highway 96, Klamath River, California, 96050, by March 9, 1988.

Questions about the proposed action and environmental impact statement should be directed to Mark S. Chaney, Special Project Assistant, Oak Knoll Ranger District, Klamath National Forest, 22541 Highway 96, Klamath River, California, 96050, phone (916) 465–2241.

Date: February 25, 1988.

Ronald W. Boatner,

Administrative Officer.

[FR Doc. 88–4603 Filed 3–2–88; 8:45 am]

BILLING CODE 3410–11–M

Western Spruce Budworm in the Pacific Region Northwest-Oregon and Washington, Program Management; Intent To Prepare An Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Department of Agriculture, Forest Service, will prepare an environmental impact statement (EIS) for a program of management of western spruce budworm on National Forest lands and for cost-share programs involving lands administered by the Bureau of Indian Affairs and the Bureau of Land Management, U.S. Department of Interior; certain other lands administered by the State of Oregon and State of Washington; and certain lands of cooperating private landowners. The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action, the scoping of the analysis, and EIS to Roger Ogden, Team Leader, Pacific Northwest Regional Office, USDA-Forest Service, P.O. Box 3623, Portland, Oregon 97208, phone 503–221–2727.

SUPPLEMENTARY INFORMATION: A western spruce budworm infestation has continued for eight years in the Pacific Northwest. Over seven million acres of coniferous host type have been affected. Previous environmental assessments have examined management alternatives on a yearly basis. This EIS proposes to examine all reasonable short term management options that can be implemented over the duration of the current outbreak.

The program to be developed will include management goals, methods, and mitigating measures to be used in the management of the current outbreak. The program will be developed by exploring alternative goals, methods and mitigating measures and ultimately selecting one alternative that is most responsive to the public issues and the Forest Service mission. Subsequent site specific projects for the management of western spruce budworm will be tiered to this programmatic EIS.

Federal, State, and local agencies, potential future private cooperators, and individuals and organizations who may be interested in or affected by the decisions to be made will be invited to participate in the scoping process. The purpose of scoping is to identify the issues to be considered, determine interests of the public, public agencies, identify cooperating agencies, and determine the scope of the decision.

Methods to be considered include no action, the use of chemical and/or biological insecticides and silvicultural practices to improve forest health and reduce the damage associated with outbreaks. Questions of efficacy of methods, potential human health effects, and environmental effects will be considered, as well as the potential economic effects.

James F. Torrence, Regional Forester, Pacific Northwest Region, Portland, Oregon, is the responsible official.

The Bureau of Indian Affairs, and Bureau of Land Management, U.S. Department of Interior; The Department of Natural Resources, State of Washington; and the Department of Forestry, State of Oregon will be invited to participate as cooperating agencies with jurisdiction by law, in the development of the program. Other agencies with special expertise that bears on the decisions at hand will also be invited to cooperate.

Potential economic, biological, social, and physical effects on the human environment will be considered for the alternative programs developed in the course of this EIS. A draft EIS is scheduled to be available for public review September 15, 1988.

The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the Federal Register. It is very important that those interested in the management of western spruce budworm program participate at that time. To be the most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFF 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435, U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final EIS. *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time it can meaningful consider them and respond to them in the final.

After the comments period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by January 15, 1989. In the final EIS the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making a decision regarding this program. The responsible official will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to appeal under 36 CFR 211.18.

Date: February 25, 1988.

Mary Jo Lavin,

Acting Regional Forester.

[FR Doc. 88-4590 Filed 3-2-88; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Navajo Lake Critical Area Treatment RC&D Measure, CO; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is not being prepared for the Navajo Lake Critical Area Treatment RC&D Measure, Archuleta County, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Boone, State Conservationist, Soil Conservation Service, 2490 West 26th Avenue, Denver, Colorado 80211, telephone (303) 964-0295.

SUPPLEMENTARY INFORMATION: The Environmental Assessment of this federally assisted action indicates that the measure will not cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. Sheldon G. Boone, State Conservationist, has determined that the preparation and review of an Environmental Impact Statement are not needed for this measure.

This critical area treatment measure concerns a plan to prevent wind and water erosion within the recreation area. The soil erosion is causing land deterioration, sediment pollution to the Reservoir, and is an irritant to the tourists using the area. The planned works of improvement includes planting tree windbreaks with drip irrigation systems.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available at the above address to fill single-copy requests. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Mr. Sheldon G. Boone. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

Date: February 24, 1988.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901, Resource Conservation and Development, and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Sheldon G. Boone,

State Conservationist.

[FR Doc. 88-4600 Filed 3-2-88; 8:45 am]

BILLING CODE 3410-16-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting of the Board

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 10:00 am to 1:00 pm, on Wednesday, March 9, 1988, to take place in Conference Room 2230 of the Department of Transportation, 400 Seventh Street, SW., Washington, DC.

Items On The Agenda: Changes to Board subject matter committees; proposed amendments to the Board's Statement of Organization and Procedures, and Authorities and Delegations.

Date: Wednesday, March 9, 1988, 10:00 am to 1:00 pm.

Address: Department of Transportation Conference Room 2230, 400 Seventh Street, SW., Washington, DC.

Committees of the ATBCB will meet on Tuesday, March 8, in DOT Conference Room 2230.

FOR FURTHER INFORMATION CONTACT: Barbara Gilley, Administrative Officer, (202) 653-7834 (voice or TDD).

Margaret Milner,

Executive Director.

[FR Doc. 88-4673 Filed 3-1-88; 9:25 am]

BILLING CODE 6820-BP-M

ARCTIC RESEARCH COMMISSION

Meeting of Commission

Notice is hereby given that the Arctic Research Commission will meet with the Governor, State of Alaska, and with Members of the Alaska State Legislature in Juneau, Alaska, on 10–11 March 1988.

At 8:30 a.m. on 10 March the Commission will meet in Executive Session at the Westmark Juneau Hotel, Juneau, Alaska. Agenda topics will include: Commission budgetary matters; consideration of new members and staff; and the internal operations of the Commission. In addition the Commission will discuss future plans and activities.

At 1:45 p.m. the Commission will hold an open session at the Westmark Juneau Hotel. Topics to be discussed will include: international cooperation in Arctic research; Arctic logistics; and Arctic information and data.

At 4:30 p.m. the Commission will meet with the Governor, State of Alaska, at the Governor's Mansion, Juneau, Alaska.

At 9:00 a.m. on 11 March the Commission will hold a public meeting at the Juneau Borough council chambers, 155 Seward Street, Juneau, Alaska. Public comments is requested on U.S. Arctic research needs and policy issues.

The Commission will meet in the afternoon with the House and Senate Health, Education and Social Services Committees and the Senate International Trade Committee, Capital Building, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Mr. W. Timothy Hushen, (213) 743–0970.

W. Timothy Hushen,

Executive Director, Arctic Research Commission.

[FR Doc. 88–4624 Filed 3–2–88; 8:45 am]

BILLING CODE 7555-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of National Security Investigation of Imports of Plastic Injection Molding Machines

AGENCY: International Trade Administration, Office of Industrial Resource Administration, Commerce.

ACTION: Notice of an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), and request for comments.

SUMMARY: This notice is to advise the public that an investigation is being initiated under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security of imports of plastic injection molding machines. Interested parties are invited to submit written comments, opinions, data, information or advice relative to the investigation to the Strategic Analysis Division, Office of Industrial Resource Administration, U.S. Department of Commerce.

EFFECTIVE DATE: Comments must be received not later than April 4, 1988. Written comments should be addressed to: Steven C. Goldman, Director, Strategic Analysis Division, Office of Industrial Resource Administration, International Trade Administration, U.S. Department of Commerce, Room H3878, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Steven C. Goldman, Director, Strategic Analysis Division, Office of Industrial Resource Administration, International Trade Administration, U.S. Department of Commerce, Room H3878, Washington, Dc 20230; telephone number: (202) 377–4060.

SUPPLEMENTARY INFORMATION: In an application submitted January 11, 1988 by the Society of the Plastics Industry, Inc. on behalf of the Domestic Injection Molding Machinery Trade Group, the Department of Commerce was requested to initiate an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effect on the national security of imports of plastic injection molding machines.

On February 29, 1988 the Department of Commerce confirmed receipt of and accepted the application requesting an investigation. The findings and recommendations of the investigation will be reported by the Secretary of Commerce to the President no later than January 11, 1989.

The articles to be investigated include both horizontal and vertical plastic injection molding machines. These items are currently described by Standard Industrial Classification Code 355935, and are currently classifiable in the Tariff Schedules of the United States Annotated (TSUSA) at items 678.3517 and 678.3570.

This investigation is being undertaken in accordance with Part 359 of Title 15 of the Code of Federal Regulations (15 CFR Part 359) ("Regulations"). Interested parties are invited to submit written comments, opinions, data, information or advice relevant to this investigation to the Office of Industrial Resource Administration, U.S. Department of Commerce, no later than April 4, 1988.

All materials should be submitted with 10 copies. Public information will be made available at the Department of Commerce for public inspection and copying. Material that is national security classified information or business confidential information is subject to the provisions of § 359.6 of the regulations (15 CFR 359.6) Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission which can be placed in the public file.

The public record concerning this investigation will be maintained in the Central Records Unit, Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Washington, DC 20230. The records in this facility may be inspected and, for a fee, copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations.

Information about the inspection and copying of records at the facility may be obtained from the Central Records Unit, Import Administration, at (202) 377–1248.

If deemed appropriate by the Department, public hearings may be held to elicit further information as provided in § 359.8 (15 CFR 359.8) of the Regulations. Notice will be published in the **Federal Register**, giving the time, place, and matters to be considered at such hearing(s) so that interested parties will have an opportunity to participate.

Dated: February 29, 1988.

Gilbert B. Kaplan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 88–4638 Filed 3–2–88; 8:45 am]

BILLING CODE 3510-OT-M

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Approval of Exploration License Revision for Kennecott Consortium

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of approval of deep seabed hard mineral resources exploration license revision for Kennecott Consortium.

SUMMARY: On October 29, 1987, at 52 FR 41611, the National Oceanic and Atmospheric Administration (NOAA), noticed receipt of a proposal from Kennecott Consortium (KCON), 1515 Mineral Square, Salt Lake City, Utah 84112, to modify the exploration plan

incorporated into Deep Seabed Hard Mineral Resources Exploration License USA–4, which was issued to KCON on October 29, 1984. No comments were received objecting to approval of this license revision. Pursuant to the Deep Seabed Hard Mineral Resources Act, (Pub. L. 96–283) and 15 CFR Part 970, on February 22, 1988, NOAA approved Revision No. 1 to USA–4, as proposed by the licensee.

FOR FURTHER INFORMATION CONTACT: John W. Padan, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, NOAA, 1825 Connecticut Avenue, NW., Suite 710, Washington, DC 20235, (202) 673-5117.

Dated: February 26, 1988.

James P. Blizzard,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 88–4622 Filed 3–2–88; 8:45 am]

BILLING CODE 3510–12–M

Deep Seabed Mining; Approval of Revisions to Mine Site Areas and Publication of Revised Coordinates

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of approval of amendments to Deep Seabed Mining Exploration License areas and publication of revised coordinates.

SUMMARY: Pursuant to the Deep Seabed Hard Mineral Resources Act and 15 CFR Part 970, and at the request of the affected U.S. licensees, the National Oceanic and Atmospheric Administration (NOAA) on February 22, 1988 approved revisions to exploration licenses USA–2 and USA–3, issued to Ocean Management, Inc. (OMI) and Ocean Mining Associates (OMA), respectively. On October 7 and 16, 1987, at 52 FR 37490 and 52 FR 38504, NOAA published notice of the proposed license area changes to USA–2 and USA–3 and to exploration license USA–1 issued to Ocean Minerals Company (OMCO), and a brief explanation of how these area revisions would be accomplished. No comments were received in opposition to approval of the requested revisions. NOAA will announce final action on the proposed revisions to license USA–1 at a later date.

In accordance with the provisions of 15 CFR 970.512 through 970.514, NOAA has modified the license terms, conditions and restrictions (TCR (5)) of licenses USA–2 and USA–3 to restrict exploration activities so as to reflect the resolution of site overlaps. All other license TCRs will remain in effect.

USA–2, Issued to Ocean Management, Inc.

NOAA published the coordinates for the Ocean Management, Inc. exploration license area at 49 FR 48205 on December 11, 1984. That license area is now amended, resulting in a change in operating area from approximately 135,100 square kilometers to approximately 112,500 square kilometers; a reduction of approximately 22,600 square kilometers. This amendment is accomplished as follows:

(1) The license area is reduced by OMI relinquishment of the following area:

Turning points	Latitude (North)	Longitude (West)
1	12°50′	133°50′
2	12°50′	134°00′
3	13°00′	134°00′
4	13°00′	134°15′
5	12°30′	134°15′
6	12°30′	134°04′
7	12°11.6′	134°04′
8	12°11.6′	133°50′
1	12°50′	133°50′

The above area has been applied for to be added to the license area of Ocean Minerals Company.

(2) The operating area within the original license area is reduced by adding new paragraphs (b) and (c) to TCR(5) of the license terms, conditions and restrictions. TCR(5) now provides as follows:

(5) Freedom of the High Seas Requirements

(a) The licensee shall conduct its exploration activities in a manner which will not unreasonably interfere with the interests of other nations in their exercise of the freedoms of the high seas, as recognized under general principles of international law, such as fishing, navigation, submarine pipeline and cable laying, and scientific research (15 CFR 970.520).

(b) In particular, pursuant to the resolution of the deep seabed mining site overlap between Ocean Management, Inc., and Yuzhmorgeologia, which is to be implemented as set forth in the agreement of August 14, 1987, between the United States and the U.S.S.R., Ocean Management, Inc., shall not engage in exploration, and shall not physically interfere with the exploration or commercial recovery activities of other operators, in the following area:

Turning points	Latitude (North)	Longitude (West)
1	13°30′	134°45′
2	13°30′	133°50′
3	12°50′	133°50′
4	12°50′	134°00′
5	13°00′	134°00′
6	13°00′	134°15′
7	12°30′	134°15′
8	12°30′	134°04′
9	12°11.6′	134°04′
10	12°11.6′	133°50′
11	11°30′	133°50′
12	11°30′	134°45′
1	13°30′	134°45′

(c) In the event of actions which may constitute a breach of the above agreement of August 14, 1987, including the understandings related thereto, the State Department, on its own initiative or at the request of NOAA or any affected licensee, will determine within 60 days after such initiative or request, and in consultation with NOAA and any affected licensee, if such a breach has occurred. If this is determined to be the case, the Department of State and NOAA, in consultation with any affected licensee, will take appropriate action to seek to remedy the breach. If such breach cannot be remedied within 90 days after it is determined a breach has occurred, NOAA shall, in accordance with NOAA regulations, remove or modify restrictions set forth in TCR(5)(b), or take promptly such other action as is appropriate and effective.

USA–3, Issued to Ocean Mining Associates

A. License Area Amendment

NOAA published the coordinates for the Ocean Mining Associates exploration license area at 49 FR 44938 on November 13, 1984. That license area is now amended, resulting in a change in operating area from approximately 156,060 square kilometers to approximately 150,310 square kilometers; a reduction of approximately 5,750 square kilometers. This amendment is accompanied by reducing the operating area within the original license area, through adding new paragraphs (b) and (c) to TCR(5) of the license terms, conditions and restrictions. TCR(5) now provides as follows:

(5) Freedom of the High Seas Requirements

(a) The licensee shall conduct its exploration activities in a manner which will not reasonably interfere with the interests of other nations in their exercise of the freedoms of the high

seas, as recognized under general principles of international law, such as fishing, navigation, submarine pipeline and cable laying, and scientific research (15 CFR 970.520).

(b) In particular, pursuant to the resolution of the deep seabed mining site overlap between Ocean Mining Associates and Yuzhmorgeologia, which is to be implemented as set forth in the agreement of August 14, 1987, between the United States and the U.S.S.R., Ocean Mining Associates shall not engage in exploration, and shall not physically interfere with the exploration or commercial recovery activities of other operators, in the following area:

Turning points	Latitude (North)	Longitude (West)
1	14°45'	128°12.5'
2	14°37.5'	128°12.5'
3	14°37.5'	128°9.13'
4	14°15'	128°9.13'
5	14°15'	128°5'
6	14°00'	128°5'
7	14°00'	128°10'
8	13°55'	128°10'
9	13°55'	128°15'
10	13°34.56'	128°15'
11	13°34.56'	128°35'
12	14°45'	128°35'
1	14°45'	128°12.5'

(c) In the event of actions which may constitute a breach of the above agreement of August 14, 1987, including the understandings related thereto, the State Department, on its own initiative or at the request of NOAA or any affected licensee, will determine within 60 days after such initiative or request, and in consultation with NOAA and any affected licensee, if such a breach has occurred. If this is determined to be the case, the Department of State and NOAA, in consultation with any affected licensee, will take appropriate action to seek to remedy the breach. If such breach cannot be remedied within 90 days after it is determined a breach has occurred, NOAA shall, in accordance with NOAA regulations, remove or modify the restrictions set forth in TCR(5)(b), or take promptly such other action as is appropriate and effective.

B. Proposal for Interim Preservational Reference Area

Ocean Mining Associates (OMA) has submitted to NOAA a requrest for consultation with the objective of early designation by OMA of an area of approximately 6,520 square kilometers within the area of license USA–3 as an interim preservational reference area. The coordinates delineating the proposed area are as follows:

Turning points	Latitude (North)	Longitude (West)
1	14°10'	128°5'
2	14°10'	128°0'
3	12°55'	128°0'
4	12°55'	128°27.5'
5	12°32.5'	128°27.5'
6	12°32.5'	128°35'
7	13°34.56'	128°35'
8	13°34.56'	128°15'
9	13°55'	128°15'
10	13°55'	128°10'
11	14°0'	128°10'
12	14°0'	128°5'
1	14°10'	128°5'

This proposal is consistent with the approach NOAA is pursuing for monitoring the environmental effects of deep seabed mining. NOAA's approach responds to guidance on this subject from a panel of the National Research Council, National Academy of Sciences. NOAA also notes OMA's belief that such a proposal could serve as a catalyst for, and nucleus of, a constructive cooperative program of research, with additional benefits to industry, the Nation and the international community.

In view of the above considerations, NOAA believes it is beneficial to pursue OMA's proposal and to examine further the potential designation of the proposed OMA area as a reference area for purposes of environmental research and monitoring.

Dated: February 26, 1988.

James P. Blizzard,

Acting Director, Office of Ocean and Coastal Resources Management.

[FR Doc. 88–4623 Filed 3–2–88; 8:45 am]

BILLING CODE 3510–12–M

Marine Mammals; Issuance of Permit to New England Aquarium (P46A)

On November 25, 1987, notice was published in the **Federal Register** (52 FR 45218) that an application had been filed by the New England Aquarium, Central Wharf, Boston, Massachusetts 02110 for a permit to take six (6) Atlantic bottlenose dolphins (*Tursiops truncatus*) for public display.

Notice is hereby given that on February 24, 1988, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC 20235;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Date: February 24, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 88–4650 Filed 3–2–88; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of 35 DoD Advisory Committee Charters

SUMMARY: Under the provisions of Pub. L. 92–463, "Federal Advisory Committee Act," notice is hereby given that the following 35 DoD advisory committees have been determined to be in the public interest and have been renewed.

Academic Advisory Board to the Superintendent, U.S. Naval Academy
Advisory Committee on the Air Force Historical Program
Advisory Group on Electron Devices
Armed Forces Epidemiological Board
Army Advisory Panel on ROTC Affairs
Army Science Board
Board of Advisors to the President, Naval War College
Board of Advisors to the Superintendent, Naval Postgraduate School
Board of Visitors, Air University
Board of Visitors, Defense Systems Management College
Board of Visitors, Equal Opportunity Management Institute
Board of Visitors, National Defense University
Chief of Engineers Environmental Advisory Board
Chief of Naval Operations Executive Panel Advisory Committee
Command and General Staff College Advisory Committee
Community College of the Air Force Advisory Committee
Defense Advisory Committee on Military Personnel Testing
Defense Advisory Committee on Women in the Services
Defense Communications Agency Scientific Advisory Group
Defense Intelligence Agency Advisory Committee

Defense Policy Advisory Committee on Trade
Defense Science Board
Department of the Army Historical Advisory Committee
DoD Wage Committee
National Security Agency Scientific Advisory Board
Naval Research Advisory Committee
Navy Resale System Advisory Committee
Public Cryptography Advisory Committee (PCAC)
Scientific Advisory Board of the Armed Forces Institute of Pathology
Scientific Advisory Group for the Joint Strategic Target Planning Staff
Scientific Advisory Group on Effects
Secretary of the Navy's Advisory Board on Education and Training
Secretary of the Navy's Advisory Committee on Naval History
U.S. Air Force Scientific Advisory Board
U.S. Army Medical Research and Development Advisory Panel.

These committees provide necessary and valuable advice to the Secretary of Defense and other senior officials in the DoD in their respective areas of expertise. They make important contributions to DoD efforts in research and development, education and training, and various program areas.

It is a continuing DoD policy to make every effort to achieve a balanced membership in DoD advisory committees. Each committee is evaluated in terms of the functional disciplines, levels of experience, professional diversity, public vs. private association, and similar characteristics required to ensure that a high degree of balance in the membership is obtained.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 29, 1988.

[FR Doc. 88-4688 Filed 3-2-88; 8:45 am]

BILLING CODE 3810-01-M

DoD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Wednesday, 30 March 1988.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Harold Summer, AGED Secretariat, 201 Varick Street, New York, 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. 92-463, as amended, (5 U.S.C. App. II section 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

February 26, 1988.

[FR Doc. 88-4687 Filed 3-2-88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

March 1, 1988.

The USAF Scientific Advisory Board Ad Hoc Committee on Hypersonic Test Facilities had rescheduled its meeting, previously scheduled on March 8-11, 1988. The rescheduled meeting will now occur on 16-17 March, 1988, from 9:00 a.m. to 5:00 p.m. at the Office of the Scientific Advisory Board, Room 5D982, The Pentagon, Washington D.C.

The purpose of this meeting is to indoctrinate the committee on the Hypersonic test facility requirements for projected hypersonic vehicles and munitions, discuss the status of current national ground test facilities, and map out a strategy to develop a roadmap to acquire or upgrade an adequate ground test capability to accomplish pre-design and design validation testing for new military and civilian production hypersonic systems.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88-4708 Filed 3-2-88; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Command and General Staff College Advisory Committee; Meeting

In accordance with section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name:

Command and General Staff College (CGSC) Advisory Committee

Date

16-18 March 1988

Place:

Room 113, Bell Hall, Ft. Leav. KS 66027-6900

Time

2000-2200, 16 March 1988; 0900-1630, 17 March 1988;

0900-1400, 18 March 1988.

Proposed Agenda:

2000-2200, 16 March: Review of CGSC educational program.

0900-1630, 17 March: Continuation of review.

0900-1000, 18 March: Continuation of review.

1000-1130, 18 March: Executive session.

1300-1430, 18 March: Report to Commandant.

The purpose of the meeting is for the Advisory Committee to examine the entire range of college operations and, where appropriate, to provide advice and recommendations to the College Commandant and Faculty.

The meeting will be open to the public to the extent that space limitations of the meeting location permit. Because of these limitations, interested parties are requested to reserve space by contacting the Committees Executive Secretary.

Philip J. Brooks,

Executive Secretary, CGSC Advisory Committee, Bell Hall, Ft. Leav. KS, Phone: 913-684-2741.

[FR Doc. 88-4754 Filed 3-2-88; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplement to the Mill Creek Final Environment Impact Statement for Seepage Control

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare an FEIS Supplement.

SUMMARY: 1. In conjunction with the Mill Creek Channel Project, the Mill Creek Dam Reservoir provides flood control for the city of Walla Walla, Washington. The Mill Creek Project also provides fish and wildlife habitat, as well as recreational opportunities.

The Mill Creek Project was authorized for flood control by the Flood Control Act of 1938. The Authorization was extended to include improvement of a channel through Walla Walla, Washington, by the Flood Control Act of 1941. The project is authorized for recreation by the Flood Control Act of 1954 and the Federal Water Project Recreation Act of 1965.

The project consists of an offstream storage reservoir, dam and outlet works, diversion works, division works, and an improved channel for Mill Creek from the diversion works through the city of Walla Walla, Washington. The storage dam, located 3 miles upstream from Walla Walla, is a rolled, homogeneous silt structure 125 feet high and 3,200 feet long. It abuts rolling hills of loess and has a central cutoff trench excavated into a pervious conglomerate. Basalt bedrock underlying the conglomerate nearly outcrops on the left abutment but continuously slopes downward toward the right abutment.

A concrete cutoff wall was constructed within the dam and its foundation to curtail seepage which has caused internal erosion of the embankment and foundation materials. The construction was completed in 1982, and a pool raise was performed in 1984 to test its effectiveness. It was found that seepage has been reduced by only 30 percent, from 33 cfs to 22 cfs at the test pool elevation 1235. Observation indicated that seepage has been adequately curtailed within the dam structure where the cutoff wall exists, but that seepage still exists in the left abutment and has even increased in the right abutment area beyond the right end of the cutoff wall. Seepage water that historically has surfaced 1 mile downstream of the dam reappeared during the test pool raise. Pool raise data and historical evidence indicate the majority of water is lost between elevations 1205 and 1215.

It is the seepage through the right abutment that is of concern. The cohesionless silt of which the dam and abutments are comprised has been found to be dispersive. Because the underlying conglomerate is pervious and contains large void spaces, the embankment and foundation silts are able to migrate. Such migration is believed to be the cause of large voids found in the embankment and foundation during construction of the cutoff wall. This structural seepage will be substantially reduced by additional rehabilitation.

2. Alternatives to be investigated include:

a. Modify existing operations.

b. Install an impervious high-density polyethylene liner in the reservoir.

c. No Action.

3. Significant issues to be addressed in the draft supplement include effects of the alternatives on water quality, wildlife, fisheries, endangered species, cultural resources, and socioeconomics. The project will be reviewed under all applicable Federal, state, and local statutes.

4. Affected Federal, state, and local agencies, affected Indian Nations, and other interested organizations and parties are invited to participate in scoping for the draft supplement. A formal scoping meeting was conducted on December 10, 1987; however, additional comments should be directed to the address given below.

5. The draft supplement should be available on or about March 1988.

Address: Comments concerning the project and DEIS should be addressed to Chief, Environmental Resources Branch, Walla Walla District, Corps of Engineers, Walla Walla, Washington 99362-9265. Comments or questions can be telephones to Mr. William E. McDonald at 509-522-6627.

Dated: February 23, 1988.

James B. Royce,

Colonel, Corps of Engineers District Engineer.

[FR Doc. 88-4573 Filed 3-2-88; 8:45 am]

BILLING CODE 3710-GC-M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.129V]

Invitation To Submit Applications for New Awards Under the State Vocational Rehabilitation Unit In-Service Training Program for Fiscal Year 1988

Purpose: This program provides grants to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education, to support special projects for training State vocational rehabilitation unit personnel in program areas essential to the effective management of the unit's program of vocational rehabilitation services or in skill areas that will enable State unit personnel to improve their ability to provide vocational rehabilitation services to individuals with severe disabilities. Pursuant to 34 CFR 385.33(a), fiscal year 1988 funds are available under this program for the support of new projects in Department of Education Regions, I, II, III, V, VI, VII, VIII, and IX only.

Deadline for Transmittal of Applications: June 1, 1988.

Applications available: April 1, 1988.

Estimated Total Available Funds: $1,986,600.

Estimated Available Funds:

Region I—$249,650
Region II—$274,000
Region III—$436,350
Region V—$59,800
Region VI—$386,000
Region VII—$210,700
Region VIII—$169,600
Region IX—$200,500

Estimated Range of Awards: $2,000—$125,000.

Estimated Average Size of Awards: $38,950.

Estimated Number of Awards:

Region I—9
Region II—5
Region III—8
Region V—1
Region VI—8
Region VII—7
Region VIII—6
Region IX—7

Project Period: Not to exceed 36 months.

Applicable Regulations: (a) The State Vocational Rehabilitation Unit In-Service Training regulations, 34 CFR Parts 385 and 388; and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78.

For Applications of Further Information Contact: Mary Vest, Office of Development Programs, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3332 (Switzer Building, M/S—2312), Washington, DC 20202. Telephone: (202) 732-1343.

Program Authority: 29 U.S.C. 774.

Dated: February 29, 1988.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 88-4664 Filed 3-2-88; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Committee on Accreditation and Institutional Eligibility; Public Meeting

AGENCY: Department of Education.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Committee on Accreditation and Institutional Eligibility. This notice also describes the functions of the Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of its opportunity to attend.

DATES: May 16, 8:30 a.m. until 5:30 p.m. and May 17, 8:30 a.m. until 5:00 p.m. Third parties interested in making their position known to the Advisory Committee should provide written comments to the Department no later than April 1, 1988. Requests for third party oral presentations should be made by May 2, 1988.

ADDRESS: Georgetown Marbury Hotel, 3000 M Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: H. Reed Saunders, Director, Higher Education Management Services, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., (Room 3012, ROB–3) Washington, DC 20202 (202) 732–4922.

SUPPLEMENTARY INFORMATION: The National Advisory Committee on Accreditation and Institutional Eligibility is authorized under section 1205 of the Higher Education Act as amended by Pub. L. 96–374 (20 U.S.C. 1145). The Committee advises the Secretary of Education regarding his responsibility to publish a list of nationally recognized accrediting agencies and associations, State agencies recognized for the approval of public postsecondary vocational education, and State agencies recognized for the approval of nurse education.

The Committee also advises the Secretary of Education regarding policy concerning recognition of accrediting and State approval bodies, and concerning institutional eligibility for participation in Federal funding programs.

The meeting on May 16–17 will be open to the public. The Advisory Committee will review petitions and interim reports by the following accrediting and State approval bodies relative to initial or continued recognition by the Secretary of Education. The Committee also will hear presentations by representatives of these petitioning agencies and any interested third parties. The following petitions and interim reports will be reviewed:

Petitions for Recognition as Nationally Recognized Accrediting Agencies and Associations

A. Petition for Initial Recognition

Computing Sciences Accreditation Board, Inc.
Middle States Association of Colleges and Schools, Commission on Secondary Schools
National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine
Straight Chiropractic Academic Standards Association, Inc.
Transnational Association of Christian Schools

B. Petitions for Renewal of Recognition

American Assembly of Collegiate Schools of Business

American Medical Association, Committee on Allied Health Education and Accreditation, as coordinating agency for accreditation of allied health education and in cooperation with thirteen review committees for the following occupations:

Assistant to Primary Care Physician
Blood Bank Technologist
Cytotechnologist
Emergency Medical Technician-Paramedic
Histologic Technician
Medical Assistant
Medical Laboratory Technician (Associated Degree)
Medical Laboratory Technician (Certificate)
Medical Record Administrator
Medical Record Technician
Medical Technologist
Nuclear Medicine Technologist
Occupational Therapist
Ophthalmic Medical Assistant
Radiation Therapy Technologist
Radiographer
Respiratory Therapist
Respiratory Therapy Technician
Surgeon's Assistant
Surgical Technologist

American Podiatric Medical Association

C. Interim Reports

Accrediting Council for Continuing Education and Training (formerly, Council on Noncollegiate Continuing Education)
National Council for Accreditation of Teacher Education

Petition for Recognition as State Agencies for the Approval of Public Postsecondary Vocational Education

A. Petition for Renewal of Recognition

Arkansas State Board of Education

Petition for Recognition as a State Agency for the Approval of Nurse Education

A. Interim Report

New Hampshire Board of Nursing

The Department urges third parties interested in commenting on any of the scheduled agencies and associations to submit their positions in writing by April 1, 1988, to H. Reed Saunders, Director, Higher Education Management Services (address above). While the Advisory Committee will receive any written materials up through the date of its meeting, submission of written comments by April 1 will facilitate the work of the Committee by providing for its advance review and analysis of third party positions.

Requests for oral presentations before the Advisory Committee should be submitted in writing to H. Reed Saunders, Director, Higher Education Management Services (address above) by May 2, 1988. Requests should include the names of all persons seeking an appearance, the organization they represent, and the purpose for which the presentation is requested. Time constraints may limit oral presentations.

The acceptance of written and oral third party comments is limited to issues surrounding the petitioning or reporting accrediting or State agency's compliance with the Secretary's recognition regulations (Criteria for Recognition). Copies of these regulations may be obtained from H. Reed Saunders, Director, Higher Education Management Services (address above).

A record will be made of the proceedings of the meeting and will be available for public inspection at the Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., (Room 3036, ROB–3) Washington, DC, from the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday.

Signed at Washington, DC, on February 26, 1988.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 88–4620 Filed 3–2–88; 8:45 am]

BILLING CODE 4000–01–M

Intergovernmental Advisory Council on Education; Partially Closed Meeting

AGENCY: Education Department.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee of the Intergovernmental Advisory Council on Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: March 18, 1988.

ADDRESS: Department of Education, Room 3000, 400 Maryland Avenue, SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Gwen A. Anderson, Acting Executive Director, Intergovernmental Advisory Council on Education, Room 3036, 400 Maryland Avenue, SW., Washington, DC 20202, 732–3844.

SUPPLEMENTARY INFORMATION: The Intergovernmental Advisory Council on Education was established under section 213 of the Department of Education Organization Act (20 U.S.C. 3424). The Council was established to provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations pertaining to education.

The meeting of the Executive Committee will be closed to the public from 10:00 a.m. to 11:30 a.m. to interview candidates for the position of Executive Director. The meeting will be closed during this time under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 2) and under exemption (6) of section 552b(c) of the Government in Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b(c)(6)). The interviews and subsequent discussion will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting.

The proposed agenda of the meeting includes:

—Old Business
—Interview of Candidates for Executive Director Position (closed)
—New Business
—Budget Review
—Planning for May 9–10 Conference
—Other New Business

Records are kept of all Council proceedings, and are available for public inspection at the Office of the Intergovernmental Advisory Council on Education, Room 3036, 400 Maryland Avenue, SW., Washington, DC 20202, from the hours of 9:00 a.m. to 5:00 p.m.

Dated: February 29, 1988.

Peter R. Greer,

Deputy Under Secretary for Intergovernmental and Interagency Affairs.

[FR Doc. 88–4689 Filed 3–2–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 88–01–NG]

G.A.S. Orange Development, Inc.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on January 5, 1988, of an application filed by G.A.S. Orange Development, Inc. (G.A.S. Orange), for authorization to import from Noranda, Inc. (Noranda), up to 120,000,000 MMBtu's of Canadian natural gas over a 20-year term beginning on or about June 30, 1990. The gas would be imported to fuel a new cogeneration facility to be constructed and operated by the applicant within the city of Syracuse, New York.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than April 4, 1988.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8162

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: G.A.S. Orange furnished with its application a copy of a long-term gas sales and purchase agreement dated December 8, 1987, between Gas Alternative Systems, Inc., an affiliate of G.A.S. Orange, and Noranda. The affiliate's interests were assigned to G.A.S. Orange on December 29, 1987. Under the terms of the agreement, Noranda will supply the applicant a maximum contract quantity of 120,000,000 MMBtu's (120 Bcf) of natural gas over a 20-year term beginning on or about June 30, 1990, when the cogeneration facility is completed. Noranda agrees to deliver a maximum annual quantity of 9,000,000 MMBtu's and a maximum daily quantity of 30,000 MMBtu's of natural gas to the border point of delivery.

The natural gas will be delivered by Noranda into the pipeline facilities of NOVA Corporation of Alberta (NOVA) for transportation to the Alberta/Saskatchewan border. From there, the natural gas will be transported by TransCanada Pipelines Limited (TransCanada) to the interconnection of TransCanada's facilities with those of Tennessee Gas Pipeline Company (Tennessee) at the Canadian/United States border near Niagara Falls, Ontario. Tennessee will transport the gas from the border to a tap point on its system south of Syracuse. G.A.S. Orange will construct a 35,000 foot, 12-inch connecting line from this tap point to the cogeneration facility.

Construction of the cogeneration facility is scheduled to begin on July 1, 1988, and to be completed on or about June 30, 1990, at which time the initial delivery of natural gas would take place. It is estimated that the facility would consume approximately 19,000 Mcf of gas per day. The facility will be designed to produce 80 megawatts (net) of electricity to be sold to Niagara Mohawk Power Corporation, as well as approximately 31 megawatts (equivalent) of thermal energy to be sold to Syracuse University and other educational and medical institutions.

G.A.S. Orange agrees to purchase the natural gas from Noranda with a single lump-sum payment of $70,000,000 to be made on or before April 10, 1988. This lump-sum payment could escalate to $73,834,000 through four price increments if the payment is not made within certain stated time frames up to

and including June 11 through July 11, 1988. The agreement provides for no increase in the commodity charge after July 11, 1988. In addition to the lump-sum payment, G.A.S. Orange will pay Noranda a $.30 per MMBtu fee to cover all production, gathering and processing costs. Beginning on January 1, 1989, this fee is to be escalated by the most recent annual percentage increase in the United States GNP Implicit Price Deflator. Noranda will have the right to update this fee based on its actual production, gathering and processing costs prior to the start of the sixteenth contract year. The agreement requires G.A.S. Orange to reimburse Noranda for all gas royalty payments levied by Canadian authorities and to pay or Noranda for all transportation costs charged by NOVA and TransCanada for moving the gas to border interconnections with Tennessee's facilities. Finally, G.A.S. Orange will pay half of any export and import taxes imposed by Canada and the United States.

The contract contains no take-or-pay or minimum take provisions, but does require G.A.S. Orange to forfeit all natural gas not delivered under the contract at the end of the 20-year term. However, G.A.S. Orange may request that Noranda market up to 3,500,000 MMBtu's of the annual quantity and refund the net proceeds from such sales.

G.A.S. Orange asserts that its import arrangement is and will remain competitive over the contract term because its lump-sum commodity payment to Noranda locks in a large quantity of gas for 20 years at a favorable price. In this regard, the applicant indicates that attempts at an earlier point in project planning had not attracted the interest of domestic supply sources in a long-term agreement with a fixed commodity price. Further, G.A.S. Orange notes that the contract escalation mechanism applicable to production, gathering and processing costs should provide for a "gradual, relatively predictable increase" in these gas costs over the contract term.

According to the application, although the agreement does not provide for the dedication of specific reserves, Noranda has represented to G.A.S. Orange that it has a gas deliverability of 500 Mcf per day and proven and probable reserves, which are expanding, in excess of 2 Tcf. Further, G.A.S. Orange asserts that its proposed import will have no adverse environmental impacts. According to the application any environmental impacts resulting from construction of the 35,000 foot, 12-inch tapline will be considered by the New York Public Service Commission in the context of a proceeding under Article VII of the Public Service Law of the State of New York. G.A.S. Orange also states that the domestic transportation of its gas through the Tennessee system will require that company to construct additional facilities. On January 15, 1988, Tennessee filed with the FERC in Docket CP88–173 for permission to build those facilities.

G.A.S. Orange anticipates that the cogeneration facility will be certified by the FERC as a "qualifying facility" under the Public Utility Regulatory Policies Act of 1978. The applicant points out that with the enactment of that legislation, Congress sought to encourage the development and operation of such facilities as a matter of national energy policy, and that importation of natural gas into the United States as a primary fuel source for the project at a fixed favorable price is similarly in the public interest and should be authorized.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). To the extent there are any issues that are unique to cogeneration facilities, the ERA may consider these in making a public interest determination.

Parties that may oppose this application should comment in their responses on the issues of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The must be filed no later than 4:30 p.m. e.d.t., April 4, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of G.A.S. Orange's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, February 26, 1988.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–4593 Filed 3–2–88; 8:45 am]

BILLING CODE 6450–01–M

Proposed Remedial Order to Oasis Petroleum Corp.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed remedial order to Oasis Petroleum Corporation.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Oasis Petroleum Corporation, 5901 Green Valley Circle, Culver City, CA 90230. This Proposed Remedial Order alleges violations in the amount of $1,915,564.39 plus interest, resulting from violations of 10 CFR 212.183 during the time period January 1978 through December 1980. The effect of the alleged violations is nationwide.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: Office of Freedom of Information Reading Room, United States Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585.

Within fifteen (15) days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, United States Department of Energy, Forrestal Building, Room 6F078, 1000 Independence Avenue, SW., Washington, DC. 20585, in accordance with 10 CFR 205.193. The Notice shall be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order and shall state the person's intention to file a Statement of Objections.

Pursuant to 10 CFR 205.193(c), a person who files a Notice of Objection shall on the same day serve as copy of the Notice upon:

Sandra K. Webb, Director, Economic Regulatory Administration, U.S. Department of Energy, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002

and upon:

Diana D. Clark, Office of Enforcement Litigation, Economic Regulatory Administration, U.S. Department of Energy, Room 3H–055, RG–43, 1000 Independence Ave., SW., Washington, DC 20585.

Issued in Washington, DC, on the 24th of February, 1988.

Milton C. Lorenz,

Chief Counsel, Office of Enforcement Litigation, Economic Regulatory Administration.

[FR Doc. 88–4592 Filed 3–2–88; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for clearance to the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) type of request, e.g., new, revision, or extension; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses annually; (11) Annual respondent burden, i.e., an estimate of the total number of hours needed to respond to the collection; and (12) A brief abstract describing the proposed collection and the respondents.

DATE: Comments must be filed on or before April 4, 1988.

ADDRESS: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards, at the address below.)

For further information and copies of relevant materials contact: Carole Patton, Office of Statistical Standards (EI–70), Energy Information Administration, M.S. 1H–023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586–2222.

SUPPLEMENTARY INFORMATION: If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this Notice, you should advise the OMB DOE Desk Officer of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084.

The energy information collections submitted to OMB for review were:

1. Economic Regulatory Administration.
2. ERA–166.
3. 1903–0060.
4. Annual Report of Electric and Gas Utilities.
5. Extension.
6. Annually.
7. Mandatory.
8. State or local governments.
9. 130 respondents.
10. 130 responses.
11. 1,404 hours.
12. ERA–166 is used by the Economic Regulatory Administration as input for annual reporting to the President and Congress on the progress of State regulatory authorities and certain nonregulated electric and gas utilities in considering and making determinations with respect to the standards established by the Public Utilities Regulatory Policies Act.

1. Economic Regulatory Administration.
2. ERA–750R
3. 1903–0070.
4. Annual Compilation of Proposed and Final List of Utilities Covered by PURPA and NECPA.
5. Extension.
6. Annually.
7. Mandatory.
8. State or local governments.
9. 53 respondents.
10. 53 responses.
11. 119 hours.
12. Under ERA–750R, State regulatory authorities are requested to notify DOE in writing of each electric and gas utility for which they have ratemaking authority and other covered utilities in the State not regulated by a State regulatory authority. Lists are published in the **Federal Register.** ERA–750R covers the States providing information to ERA.

Statutory Authority: Sec. 5(a), 5(b), 13(b), and 52, Pub. L. 93–275, Federal Energy

Administration Act of 1974 (15 U.S.C. 764(a), 764(b), 772(b), and 790(a)).

Issued in Washington, DC, February 26, 1988.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 88-4591 Filed 3-2-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CS70-48-001 et al.]

Hanley Co., Hanley Petroleum Inc. and L.D. Robbins (Hanley Company), et al.; Applications for Small Producer Certificates [1]

February 29, 1988.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Commission's Regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 14, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

Docket No.	Date filed	Applicant
CS70-48-001	[1] 2-3-88	Hanley Company, Hanley Petroleum Inc. and L.D. Robbins (Hanley Company), 1500 Wilco Building, Midland, TX 79701.
CS71-20	[2] 1-28-88	McBride Oil & Gas Corporation (Hanson Oil Corporation), P.O. Box 1515, Roswell, NM 88202-1515.
CS73-36-000	[3] 2-19-88	Mullins & Prichard and Map Drilling Company (Mullins & Prichard), 935 Gravier Street, Box A-2, New Orleans, LA 70112.
CS88-5-000	[4] 11-6-87	Ben M. Patterson, Jr., 613 N.W. Loop 410, Suite 680, San Antonio, TX 78216.
CS88-39-000	2-2-88	Herbert D. Ashpaugh, 602 South Oklahoma, Box 100, Laverne, OK 73848.
CS88-44-000	2-8-88	Nuevo Seis, Inc, P.O. Drawer 2588, Roswell, NM 88201.
CS8-41-000	2-8-88	Upland Resources, Inc., P.O. Box 1142, Canadian, TX 79014.

[1] By letter dated October 15, 1987, received October 21, 1987, as supplemented by letter dated February 2, 1988, Applicant requests that Hanley Petroleum, Inc. and its President, L.D. Robbins be covered as certificate co-holders under the small producer certificate in Docket No. CS70-48. Filing date is date of receipt of filing fee.

[2] Letter dated January 22, 1988, advising that effective April 2, 1987, Hanson Oil Corporation changed its name to McBRIDE OIL & GAS CORPORATION.

[3] By letter dated February 18, 1988, Applicant requests that its wholly-owned subsidiary, MAP DRILLING COMPANY, be covered as certificate co-holder under small producer certificate in Docket No. CS73-36.

[4] Application was received October 13, 1987. Filing date is date of receipt of filing fee.

[FR Doc. 88-4637 Filed 3-2-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-19-005 et al.]

Amoco Production Co. et al.; Applications for Extension of Blanket Limited-Term Abandonments and Certificates With Pregranted Abandonment [1]

February 29, 1988.

Take notice that each Applicant listed herein has filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for amendment of its blanket limited-term abandonment and certificate with pregranted abandonment previously issued by the Commission for a term expiring March 31, 1988, to extend such authorization for the term listed herein, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 14, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requriements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

Docket No. and date filed	Applicant	Requested term of extension
CI86-19-005, 2-18-88.	Amoco Production Co., P.O. Box 87703, Mail Code 2204B, Chicago, IL 60680-0703.	1 yr.
CI87-130-001, 2-19-88.	Grace Petroleum Corp.,[2] 6501 North Broadway, Oklahoma City, OK 73116.	3 yr.
CI87-337-001, 2-18-88.	Pelto Oil Co.,[2] 500 Dallas Street, Houston, TX 77002.	3 yr.
CI88-9-001, 2-18-88.	Amerada Hess Corp., P.O. Box 2040, Tulsa, OK 74102.	3 yr.

[2] Applicant also seeks authorization to include sales of contractually uncommitted gas.

[FR Doc. 88-4632 Filed 3-2-88; 8:45 am]

BILLING CODE 6717-01-M

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[Docket No. RP86-106-010]

Arkla Energy Resources, a Division of Arkla, Inc.; Change in Tariff

February 25, 1988.

Take notice that on February 22, 1988 Arkla Energy Resources (AER) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1-A:

First Substitute Second Revised Sheet No. 55
Third Revised Sheet No. 56
First Substitute Second Revised Sheet No. 57

The proposed effective date of these revised tariff sheets is January 1, 1988.

AER states that these sheets are filed in compliance with the February 3, 1988 order in this docket. Such order rejected certain sheets that had been filed by AER on December 7, 1987 and required AER to file revised tariff sheets.

To the extent required, if any, AER requests that the Commission grant such waivers as may be necessary for the acceptance of these tariff sheets submitted herewith, to become effective January 1, 1988, as previously described.

AER states that copies of its filing have been served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 3, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cahell,
Acting Secretary.

[FR Doc. 88-4633 Filed 3-2-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI88-251-000]

Arkla Exploration Co.; Application

February 29, 1988.

Take notice that on January 19, 1988, Arkla Exploration Company, 525 Milam Street, Shreveport, Louisiana 71101-3523 (Applicant) filed in Docket No. CI88-251-000 an application pursuant to section 7(c) of the Natural Gas Act and §§ 157.23 and 157.24 of the Federal Energy Regulatory Commission's Regulations thereunder, for a certificate of public convenience and necessity to make and continue sales of natural gas to Arkla Energy Resources, a division of Arkla, Inc. (AER), and to various other purchasers listed in the Appendix hereto, as total successor to Arkla Exploration and Production, a division of Arkla, Inc.'s (E&P) interests in the production properties described and as more fully set forth in the application on file with the Commission and open for public inspection.

Applicant requests that the authorizations sought be made effective January 1, 1988, the proposed date of transfer of the properties. Applicant seeks such authorization only for natural gas over which the Commission retains jurisdiction under the Natural Gas Act. Applicant indicates that gas produced from these properties is subject to the pricing provisions of section 104 and section 106(a) of the Natural Gas Policy Act of 1978. Applicant states that the application is being made as part of a corporate reorganization and that it will continue to sell the natural gas here involved pursuant to a contract entered into between Applicant and AER dated January 1, 1988, and various other contracts with other purchasers listed in the Appendix hereto. Applicant further states that the public convenience and necessity permits the requested certificate for the reasons that: (1) There will be no change in the service provided to AER or any of the other purchasers, or their respective customers since the same service which E&P has provided with respect to the properties will continue to be provided by Applicant; (2) there will be no change in the price of the natural gas payable under E&P's existing certificates with other purchasers, nor will the requested authorization affect the price at which gas currently is transferred internally for use in AER's system supply; and (3) by consolidating all exploration and production activities in one corporate unit, that unit will be better able to continue to serve AER and its other customers in an efficient and economic manner.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 14, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

APPENDIX

Rate schedule No.	Docket No.	Contract date	Field	County/Parish/State	Purchaser	Seller
XFS-3 [1]	G-4438	6-15-83	Hico-Knowles	Lincoln Parish, LA	Eason Oil Company	Arkla Exploration & Production, division of Arkla, Inc. (formerly Arkansas Louisiana Gas)
XFS-20 [1]	CP62-40	6-28-61	Ringwood	Major County, OK	Pioneer Gas Products	Arkla Exploration & Production, division of Arkla, Inc. (formerly Arkansas Louisiana Gas).

APPENDIX—Continued

Rate schedule No.	Docket No.	Contract date	Field	County/Parish/State	Purchaser	Seller
XFS-24 [1]	CP63-276	11-1-62	Bryans Mill	Cass County, TX	Natural Gas Pipeline Co	Arkla Exploration & Production, division of Arkla, Inc. (formerly Arkansas Louisiana Gas).
XFS-18	G-20477	10-26-59	Calhoun	Ouachita Parish, LA	Texas Gas Transmission	Arkla Exploration & Production, division of Arkla, Inc. (formerly Arkansas Louisiana Gas).
XFS-32	CP72-169	7-27-71	West Ames	Major County, OK	Pioneer Gas Products	Arkla Exploration & Production, division of Arkla, Inc. (formerly Arkansas Louisiana Gas).
XFS-33	CP72-169	11-1-71	West Ames	Major County, OK	Pioneer Gas Products	Arkla Exploration & Production, division of Arkla, Inc. (formerly Arkansas Louisiana Gas).

[1] XFS # refers to Field Sale of Gas (Arkla did not have a pipeline in the area).

[FR Doc. 88-4634 Filed 3-2-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI87-764-001 et al.]

BHP Gas Marketing Co. et al.; Application for Extension of Blanket Limited-Term Certificates With Pregranted Abandonment [1]

February 29, 1988.

Take notice that each Applicant listed herein has filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for amendment of its blanket limited-term certificate with pregranted abandonment previously issued by the Commission for a term expiring March 31, 1988, to extend such authorization for the term listed herein, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 14, 1988, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,
Acting Secretary.

Docket No. and date filed	Applicant	Requested term of extension
CI87-764-001, 2-18-88.	BHP Gas Marketing Co., 5847 San Felipe, Suite 3600, Houston, TX 77057.	5 yrs.
CI87-825-001, 2-16-88.	V.H.C. Gas Systems, L.P., 530 McCullough Avenue, San Antonio, TX 78215.	1 yr.
CI88-70-001, 2-19-88.	Richardson Products Co.,[2] 2610 South Tower Pennzoil Place, Houston, TX 77002.	(*)

*Unlimited.
[2] Applicant also requests authorization on behalf of producer-suppliers selling to or through Applicant as agent.

[FR Doc. 88-4635 Filed 3-2-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP88-61-000]

Granite State Gas Transmission, Inc.; Petition for Authority To Recover Order No. 473 Compression Costs by Direct Billing Procedure

February 26, 1988.

Take notice that on February 23, 1988, Granite State Gas Transmission, Inc. (Petitioner), 120 Royall Street, Canton, Massachusetts 02021 filed a petition with the Commission requesting authorization to recover certain compression allowances by directly billing its jurisdictional customers, Bay State Gas Company and Northern Utilities, Inc.

Petitioner states that it does not directly incur any of the compression allowances authorized under Order No. 473. Petitioner further states that it purchases firm supplies from Tennessee Gas Pipeline Company (Tennessee) and, in the past, from CNG Transmission Corporation (CNG) and has also made short-term purchases from National Fuel Gas Supply Corporation (Natural Fuel). Petitioner states that Tennessee has received authority from the Commission to bill its customers directly for Order No. 473 compression allowances. Petitioner states that it has been advised by Tennessee that Tennessee will commence billing Petitioner in February, 1988 on a monthly basis for such costs. Direct billings may also be received applicable to its prior purchases from CNG and National Fuel.

Additionally, Petitioner states that recovery of such costs should be accomplished by directly billing its customers for their proportionate shares of the costs applicable to the past periods to which the costs apply which can be accomplished on a direct billing basis but not under purchased gas cost adjustment procedures.

Petitioner states that copies of its petition have been served upon the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). All such motions or protests should be filed on or before March 4, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-4636 Filed 3-2-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-53-009]

Ozark Gas Transmission System; Filing

February 29, 1988.

Take notice that on February 18, 1988, Ozark Gas Transmission System (Ozark) tendered for filing the below listed tariff sheets to be a part of its FERC Gas Tariff, Original Volume No. 1.

Substitute Fourth Revised Sheet No. 5 is redesignated as Substitute Second Revised Sheet No. 5

Fifth Revised Sheet No. 5 is redesignated as Second Substitute Second Revised Sheet No. 5

Sixth Revised Sheet No. 5 is redesignated as Second Substitute Third Revised Sheet No. 5

Ozark states that it is making this filing to redesignate the tariff sheets filed with its December 21, 1987 letter.

Ozark states that copies of this filing are being served on all parties and on each of its customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before March 7, 1988. Protests will be considered by the Commission in determining the appropriated action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-4640 Filed 3-2-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-2-39-000]

Pacific Interstate Transmission Co.; Rate Filing

February 25, 1988.

Take notice that Pacific Interstate Transmission Company ("PITCO") on February 22, 1988, tendered for filing, in lieu of filing its Purchased Gas Cost Adjustment ("PGCA"), a request for authority to perform certain acts pursuant to its Rate Schedule S-G-1. PITCO states that it has requested abandonment of its PGCA in Docket No. CP86-669-000, that all gas contracts covered by PITCO's PGCA have terminated, and that no gas will be purchased and resold to PITCO's sole customer, Southern California Gas Company ("SoCalGas") under the subject rate schedule. PITCO, however, states that certain unrecovered gas costs remain in Account 191 after all gas ceased to flow on or before February 16, 1988, estimated to be approximately $78,305.70.

Therefore, PITCO requests authority to suspend its Rate Schedule S-G-1 and all charges related to the rate schedule effective April 1, 1988, conditioned on the outcome of the pending abandonment application. Further, PITCO proposes a one-time billing of all unrecovered gas costs to its sole customer, SoCalGas, who, PITCO states, agrees to the proposal. PITCO proposes to report and justify the final uncollected balance at the time the amount is determined.

PITCO has requested that waiver be granted of all applicable rules and regulations of the Commission as may be necessary to implement the billing of uncollected costs and suspension of Rate Schedule S-G-1 effective April 1, 1988.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of this Chapter. All such motions or protests should be filed on or before March 3, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois Cashell,

Acting Secretary.

[FR Doc. 88-4641 Filed 3-2-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST86-1166-001]

Panhandle Gas Co.; Extension Reports

February 26, 1988.

The company listed below has filed an extension report pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue sales of natural gas for an additional term of up to 2 years.[1]

The table below lists the name and address of the company selling pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Lois D. Cashell,

Acting Secretary.

[1] Notice of this extension report does not constitute a determination that a continuation of service will be approved.

EXTENSION LIST, FEBRUARY 1988

Docket No.	Transport/Seller	Recipient	Date filed	Part 284 Subpart	Effective date	Expiration date [2]
ST86-1166-001 [1]	Panhandle Gas Co., P.O. Box 1188, Houston, TX 77251.	Southern California Gas Co	02-16-88	D	03-01-88	05-16-88

[1] This extension report was filed after the date specified by the Commission's Regulation, and shall be the subject of a further Commission order.
[2] The pipeline has sought Commission approval of the extension of this transaction. The 90-day Commission review period expires on the date indicated.

[FR Doc. 4642 Filed 3-2-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-55-001]

Raton Gas Transmission Co.; Filing

February 26, 1988.

Take notice that on February 25, 1988, Raton Gas Transmission Company (Raton) tendered for filing Amended Ninth Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1, to be effective March 7, 1988.

Raton states that it filed Amended Ninth Revised Sheet No. 4 to reduce both the demand and commodity charges stated on the original sheet filed on February 5, 1988. Accordingly, Raton requests that the Amended Ninth Revised Sheet No. 4 be accepted in substitution for the original sheet filed on February 5, 1988.

Any person desiring to be heard or to protest said filing shoud file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before March 4, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-4643 Filed 3-2-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-82-003]

Tarpon Transmission Co.; Compliance Filing

February 26, 1988.

Take notice that on February 22, 1988, Tarpon Transmission Company ("Tarpon") tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1, to be effective upon acceptance by the Commission:

Third Revised Sheet No. 29 superseding, Second Revised Sheet No. 29.

Tarpon states that it has filed this tariff sheet, and supporting workpapers, in compliance with Ordering Paragraph (B) of Opinion No. 287, issued in Docket Nos. RP84-82-000 and -001 on October 20, 1987 (41 FERC ¶ 61,044). Tarpon further states that the transportation rate set forth on such tariff sheet reflects the methodology adopted by the Commission in Opinion No. 287.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Such notices or protests should be filed on or before March 4, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person desiring to become a party must file a motion to intervene. Copies of this compliance filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-4644 Filed 3-2-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-177-050]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 29, 1988.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on February 19, 1988 tendered for filing certain tariff sheets as part of its FERC Gas Tariff, Volume No. 1 and Volume No. 2 in compliance with the Commission's February 8, 1988 order.

Texas Eastern submits the filed sheets as a supplement to Texas Eastern's prior compliance filings in this docket of November 16, 1987 and of January 15, 1988, on the assumption that Texas Eastern's January 15, 1988 compliance filing will be accepted and made effective as of January 1, 1988. In the event the January 15, 1988 compliance filing is not accepted and made effective as of January 1, 1988, Texas Eastern also submitted alternate sheets in compliance with the Commission's February 8, 1988 order as a supplement to Texas Eastern's prior compliance filing in this docket of November 16, 1987.

Texas Eastern respectfully requests the Commission to waive all necessary rules and regulations to permit the tariff sheets proposed for filing herein to become effective on the dates listed on the relevant Appendices to the filing. Texas Eastern respectfully requests prompt Commission action on this compliance filing prior to March 1, 1988 in order to permit Texas Eastern to properly bill on March 10, 1988 its customers the approved settlement rates and in order to correctly calculate the amount to be refunded to the customers by March 9, 1988 as required by the Commission's February 8, 1988 order.

Texas Eastern states that copies of the filing were served on its jurisdictional customers and interested state commissions and all parties in Docket No. RP85-177.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before March 7, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-4645 Filed 3-2-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-115-000]

Williston Basin Interstate Pipeline Co.; Settlement Discussions Concerning Issues of Open Access Transportation

February 26, 1988.

Take notice that on August 31, 1987, Williston Basin Interstate Pipeline Company (Williston) tendered for filing proposed changes to its FERC Gas Tariffs. Public notice of the instant filing was issued September 9, 1987.

The Commission, by order issued September 29, 1987, accepted, subject to refund and conditions, Williston's revised tariff sheets. The Commission order also directed that a hearing be held on the lawfulness of Williston's proposed rates.

On October 29, 1987, Williston tendered for filing additional tariff sheets.

The tariff sheets filed by Williston on August 31 and on October 29 did not provide for open access transportation.

Informal settlement conferences have been held in this proceeding on January 12, January 21, February 4 and February 24.

The possibility that the company might offer firm and interruptible transportation service pursuant to NGPA Section 311 and Subpart B of Part 284 of the Commission's regulations has recently become a topic at these conferences and may form a part of any settlement in this proceeding. The two previous notices regarding proposed tariff changes that have been issued did not indicate that Section 311 transportation rates or conditions had been proposed in this proceeding.

The Commission has expressed concern with any settlements dealing with proposals to offer open access transportation which were made at such time in a proceeding that potentially interested parties might be denied an adequate opportunity to have their positions considered. See *United Gas Pipeline Co.*, 35 FERC ¶ 61,179 (1986) and *Transwestern Pipeline Company*, 36 FERC ¶ 61,097 (1986). For this reason notice of settlement discussions in this proceeding is being issued.

Any interested persons who may not now be parties may file motions for intervention pursuant to 18 CFR 385.214 (1988).

Take notice that an informal settlement conference will be convened in the above proceeding on March 8, 1988, at 9:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

The parties and the Commission Staff are invited to attend. Persons wishing to become parties must move to intervene pursuant to the Commission's Regulations (18 CFR 385.214 (1988)) and have their motion granted.

For additional information, contact Andrew P. Mosier, Jr., (202) 357–8410, or Sandra Delude (202) 357–8561.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88–4586 Filed 3–2–88; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3336–6]

Agency Paperwork Reduction Act Requests Completed by OMB

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces Office of Management and Budget (OMB) actions on the Information Collection Requests (ICRs) submitted by EPA.

Approved

EPA ICR #0270; Public Water System Program Information (Volatile Organic Chemicals Rule); OMB Action: 12/14/87. OMB #2040–0090; expires 9/30/90. Final rule.

EPA ICR #0328; Spill Prevention Control and Countermeasure Plan and Review; OMB Action: 1/21/88. OMB #2050–0021; expires 4/30/90. Reinstatement.

EPA ICR #0818; Hazardous Waste Industry Studies; OMB Action: 1/27/88. OMB #2050–0042; expires 10/31/90. Reinstatement.

EPA ICR #0973; Procurement System Certification Form for Applicants for EPA Assistance; OMB Action: 1/13/88. OMB #2030–0013; expires 10/31/90. Existing regulation; no changes.

EPA ICR #1072; NSPS Recordkeeping and Reporting for Lead Acid Battery Manufacturing Plants (Subpart KK); OMB Action: 1/5/88. OMB #2060–0081; expires 1/31/91. Existing regulations; no changes.

EPA ICR #1088; NSPS for Industrial-Commercial-Institutional Steam Generating Units (PM, NO_x, SO_2); OMB Action: 1/12/88. OMB #2060–0072; expires 1/31/91. Final rule.

EPA ICR #1093; NSPS for Coating of Plastic Business Machine Parts—Reporting and Recordkeeping; OMB Action: 1/20/88. OMB #2060–0162; expires 1/31/91. Final rule.

EPA ICR #1127; NSPS Recordkeeping and Reporting Requirements for Asphalt Concrete Plants (Subpart I); OMB Action: 1/5/88. OMB #2060–0083; expires 1/31/91. Existing regulation; no changes.

EPA ICR #1128; NSPS Recordkeeping and Reporting Requirements for Secondary Lead Smelters (Subpart L); OMB Action: 1/12/88. OMB #2060–0080; expires 1/31/91. Existing regulation, no changes.

EPA ICR #1129; NSPS Recordkeeping and Reporting Requirements for Secondary Brass and Bronze Ingot Production Plants (Subpart M); OMB Action 12/15/87. OMB #2060–0110; expires 12/31/90. Existing regulation; no changes.

EPA ICR #1130; NSPS for Grain Elevators—Reporting and Recordkeeping (Subpart DD); OMB Action: 1/12/88. OMB #2060–0082; expires 1/31/91. Existing regulation; no changes.

EPA ICR #1176; NSPS for Residential Wood Heaters—Information Requirements; OMB Action: 1/20/88. OMB #2060–0161; expires 1/31/91. Final rule.

EPA ICR #1363; Toxic Chemical Release Inventory Reporting Form—Title III; OMB Action: 2/3/88. OMB #2070–0093; expires 1/31/91. Final rule.

EPA ICR #1429; Request to RCRA Hazardous Waste Management Facilities for Information on Third-Party Liability Coverage; OMB Action: 1/13/88. OMB #2050–0080; expires 12/31/88. New collection.

EPA ICR #1431; Ground-Water Protection Program Information; OMB Action: 2/4/88. OMB #2040–0109; expires 7/31/89. Final rule.

EPA ICR #1433; Commercial Hazardous Waste Industry Survey; OMB Action: 1/7/88. OMB #2010–0017; expires 11/30/90. New collection.

Extended

EPA ICR #1102; Health Significance of Bacteria Found in Point-of-Use Granular Activated Carbon (GAC) Filters; OMB Action: 11/30/87. OMB #2080–0011; expires 3/31/88.

Withdrawn by EPA

EPA ICR #0186; NESHAP for Vinyl Chloride (Subpart F)—Information Requirements; OMB Action: 1/26/88. OMB #2060–0091.

EPA ICR #1420; Prohibition of Hexavalent Chromium Chemicals in Comfort Cooling Towers; OMB Action: 10/26/87; new collection.

Not Approved

EPA ICR #0270; Public Water System Program Information (Total Coliform Rule); OMB Action: 1/19/88. Proposed rule.

EPA ICR #0783; Refueling Emission Regulations for 1990 and Later Model Year Gasoline-Fueled Light-Duty Trucks and Heavy-Duty Vehicles; OMB Action: 8/24/87. Proposed rule.

Approved/Expired

EPA ICR #1408; Information Request for Conference on Continuous Emission Monitoring; OMB Action: approved 8/11/87. OMB #2060–0155; expired 10/31/87. One-time collection.

FOR FURTHER INFORMATION CONTACT:

Carla Levesque, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M St. SW., Washington, DC 20460, Telephone No. (202) 382–2740

or

Susan Dudley, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place NW., Washington, DC 20503, Telephone No. (202) 395–3084.

Dated: February 24, 1988.

David Schwarz,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 88-4613 Filed 3-2-88; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3336-6]

National Drinking Water Advisory Council; Open Meeting

Under section (10)(a)(2) of Pub. L. 92-423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (Pub. L. 99-339), will be held at 9:00 a.m. on March 24, 1988, and at 8:30 a.m. on March 25, 1988, at the Biltmore Hotel, 506 Grand Avenue, Los Angeles, California, in the Athenian Room. Council Subcommittee will hold meetings on March 21 and 22, 1988.

The main purpose of this meeting is to update the Council on the Draft Lead Regulation, the Proposed Surface Water Treatment Requirements Rule, the Proposed Coliform Rule and the Proposed Public Water Supply System Primacy Regulation.

This meeting will be open to the public. The Council encourages the hearing of outside statements and will allocate a portion of its meeting time for public participation. Oral statements will be limited to ten minutes. It is preferred that there be one presenter for each statement. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 382-2285. The petition should include the topic of the proposed statement, the petitioner's telephone number and should be received by the Council before March 15, 1988.

Any person who wishes to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at the Council meeting and will be part of the permanent meeting record.

Any member of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement, should contact Ms. Charlene E. Shaw, Executive Secretary, National Drinking Water Advisory Council, Office of Drinking Water (WH-550A), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The telephone number is: Area Code 202/382-2285.

Dated: February 25, 1987.

Lawrence J. Jensen,

Assistant Administrator for Water.

[FR Doc. 88-4614 Filed 3-2-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Specialized Mobile Radio Service Frequency Block Deleted

February 9, 1988.

A February 2, 1988, Public Notice (DA-88-87), published February 17, 1988, 53 FR 4716, announced that the following frequency block would be available for reassignment to trunked SMR applicants on March 3, 1988. The frequency block is not available and is deleted from the public notice.

851.7375, 852.4875,
853.2375, 853.9875,
854.7375 MHz
Seattle, WA
47-30-14 North
121-58-28 West

For further information, contact Betty Woolford of the Private Radio Bureau's Land Mobile and Microwave Division at (202) 632-7125.

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88-3870 Filed 3-2-88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

CSB, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consumption of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 23, 1988.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *CSB, Inc.*, Chesterton, Indiana; to acquire Indiana Benefit Insurance Company, and thereby engage in acting as an insurance agency and underwriter directly relating to an extension of credit by the bank holding company or any of its subsidiaries pursuant to § 225.25(b)(i)(A) of the Board's Regulation Y. These activities will be conducted in the State of Indiana.

Board of Governors of the Federal Reserve System, February 26, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-4574 Filed 3-2-88; 8:45 am]

BILLING CODE 6210-01-M

Gracemont Bankcorporation, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23 (a)(1)) of the Board's Regulation Y (12 CFR 225.23 (a)(1) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 23, 1988.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoeing, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Gracemont Bankcorporation, Inc.*, Gracemont, Oklahoma; to engage *de novo* in the sale of life and accident and health insurance directly related to extensions of credit by its subsidiary bank pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Pacific Western Bancshares*, San Jose, California; to expand the geographic scope of the previously approved data processing services of its subsidiary, Pacific Western Information Systems, San Jose, California, to include the United States and foreign countries pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 26, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-4575 Filed 3-2-88; 8:45 am]

BILLING CODE 6210-01-M

Peoples Heritage Financial Group, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 23, 1988.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Peoples Heritage Financial Group, Inc.*, Portland, Maine; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Heritage Savings Bank, Portland, Maine. Bank engages in casualty insurance activities. Applicant has committed to divest or restructure these activities within two years of consummation.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Independent Bancshares, Inc.*, Ocala, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Independent Bank of Ocala, Ocala, Florida, a *de novo* bank.

C. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *F.N.B.C. of La Grange, Inc.*, La Grange, Illinois; to acquire 50 percent of the voting shares of Wesco Investment Corporation, La Grange, Illinois, and thereby indirectly acquire West Chicago State Bank, West Chicago, Illinois.

Board of Governors of the Federal Reserve System, February 26, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-4576 Filed 3-2-88; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Committee on Vital and Health Statistics; Meeting

ACTION: Notice of meeting.

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) Work Group on Data Dissemination Issues established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, announces the following Work Group meeting

Name: National Committee on Vital and Health Statistics Work Group on Data Dissemination Issues.

Time and Date:

9:00 a.m.-5:00 p.m.-March 28

9:00 a.m.-12:00 noon-March 29

Status: Open.

Purpose: The Work Group meeting will discuss and receive testimony on current DHHS agency policies concerning the availability and timeliness of release of public use data tapes.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and roster of Committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2-12, Center Building, 3700 East West Highway, Hyattsville, Maryland 20782, telephone (301) 436-7050

Dated: February 26, 1988.

Elvin Hilyer

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 88-4577 Filed 3-2-88; 8:45 am]

BILLING CODE 4160-18-M

Health Resources and Services Administration

Meeting of National Advisory Council on Health Professions Education

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of March 1988:

Name: National Advisory Council on Health Professions Education
Date and Time: March 21–22, 1988, 9:00 a.m.
Place: Conference Room G, Parklawn Building 5600 Fishers Lane Rockville, Maryland 20857
Open on March 21, 9:00 a.m.-1:00 p.m.
Closed for Remainder of Meeting

Purpose: The Council advises the Secretary with respect to the administration of programs of Financial assistance for the health professions and makes recommendations based on its review of applications requesting such assistance. This also involves advice in the preparation of regulations with respect to policy matters.

Agenda: The open portion of the meeting will cover welcome and opening remarks, report of the Administrator, Health Resources and Services Administration, report of the Director, Bureau of Health Professions, financial management update, presentation on Health Care Administration and future agenda items. The meeting will be closed at 1:00 p.m. on March 21, 1988, for the remainder of the meeting for the review of grant applications for Family Medicine Predoctoral Training, Area Health Education Centers, General Internal Medicine/General Pediatric Faculty Development, Health Career Opportunity Program, Graduate Programs in Health Administration, Podiatric Training, Geriatric Education Centers, Family Medicine Faculty Development, Physician Assistant Training, Family Medicine Department, and Two-Year Programs for schools of Medicine/Osteopathy. The closing is in accordance with the provision set forth in section 552b(c)(6), Title 5 U.S.C. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to Public Law 92–463.

Anyone requiring information regarding the subject Council should contact Mr. Robert Belsley, Executive Secretary, National Advisory Council on Health Professions Education, Room 8C–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301)443–6880.

Agenda Items are subject to change as priorities dictate.

Date: February 26, 1988.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 88–4618 Filed 3–2–88; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Assessment Guidelines for Home Air-Fluidized Bed Therapy; Supplemental Notice

This supplemental notice of assessment of medical technology is published by the Public Health Service (PHS) through the Office of Health Technology Assessment (OHTA). It is intended to reflect a follow-up request from the Health Care Financing Administration (HCFA) that its original request for an assessment of Guidelines for Home Air-Fluidized Bed (Clinitron) Therapy, published in the **Federal Register** volume 52 #168, August 31, 1987 be expanded to include other air-fluidized beds in the same generic category. For the purpose of this assessment, an air-fluidized bed in defined according to the Food and Drug Administration 21 CFR 890.5160 as "a device employing the circulation of filtered air through ceramic spherules (small, round ceramic objects) that is intended for medical purposes to treat or to prevent bedsores, to treat severe or extensive burns, or to aid circulation." Any therapeutic bed not encompassed by this definition is not within the scope of this assessment.

Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than April 15, 1988 or 30 days from the date of publication of this notice.

Written material should be submitted to: Kesinee C. Nimit, M.D., Office of Health Technology Assessment, 5600 Fishers Lane, Room 18A–27, Rockville, MD 20857, Tel: (301) 443–4990.

Dated: February 25, 1988.

Enrique D. Carter,

Director, Office of Health Technology Assessment, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 88–4607 Filed 3–2–88; 8:45 am]

BILLING CODE 4160–17–M

Privacy Act of 1974; Addition of Routine Use to an Existing System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notice of addition of new routine use to an existing system of records.

SUMMARY: The Public Health Service (PHS) is publishing notice of our intent to add a new routine use for the disclosure of information from the following Privacy Act system of records: 09–15–0045, "Health Resources and Services Administration Loan Repayment/Debt Management Records System, HHS/HRSA/OA."

DATE: PHS invites public comments on the new routine use on or before April 4, 1988. This routine use will become effective without further notice 30 days after the date of publication unless we recieve comments which would result in a contrary determination.

ADDRESS: Please address comments to the HRSA Privacy Act Coordinator, Department of Health and Human Services, Parklawn Building, Room 14A–20, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301)443–3780. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: James C. Hargrave, Chief, Debt Management Branch, Health Resources and Services Administration, Department of Health and Human Services, Room 16A–09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301)443–6344. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: HRSA maintains system of records 09–15–0045 to reduce the amount of outstanding debts owed to the Federal Government. This system of records covers individuals who have received student loans, scholarships, traineeships, or grant funds under Titles III, VII, and VIII of the Public Health Service Act as amended, and who are delinquent in repaying either loans or funds owed in lieu of a service obligation under such programs.

A government-wide effort is currently underway to identify employees who are delinquent debtors and to recoup those debts. The United States Postal Service (USPS) plans to participate in this effort by acting as the matching agency for all computer matches of its employee data that may be conducted against the delinquent debtor records of requesting creditor agencies.

The proposed statement of routine use will allow HRSA to disclose delinquent debtors records to USPS in order to obtain the current home or work address of individuals who receive Federal salaries or certain benefit payments resulting from Federal employment. HRSA follows the provisions of the Debt

Collection Act of 1982 (Pub. L. 97–365) in seeking voluntary repayment, and does not utilize a computer matching program until it is clear that voluntary repayment will not be forthcoming.

This routine use is compatible with the purpose for which the records were collected.

Dated: February 22, 1988

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09–15–0045

SYSTEM NAME:

Health Resources and Services Administration Loan Repayment/Debt Management Records Systems, HHS/HRSA/OA.

A new routine use, number 15, is added as follows:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

* * * * *

15. HRSA may disclose records of delinquent debtors to the United States Postal Service to conduct matching programs for the purpose of identifying and locating individuals who are receiving Federal salaries or certain benefit payments resulting from Federal employment and are delinquent in their repayment of debts owed to the U.S. Government. These debts arose under programs administered by the Public Health Service. HRSA will disclose this information in an effort to collect the debts by administrative or salary offset, under the provisions of the Debt Collection Act of 1982, (Pub. L. 97–365).

* * * * *

[FR Doc. 88–4647 Filed 3–2–88; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[FES 88–8]

Dunn-Nokota Methanol Project, Dunn County, ND; Availability of Final Environmental Statement

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of the availability of final environmental statement.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), as amended, the Department of the Interior has prepared a Final Environmental Impact Statement for the sale of water under an industrial water service contract with the Nokota Company for a proposed Coal to Methanol Project in Dunn County, North Dakota. It would produce 86,840 barrels per stream day of Methanol from 43,156 net short tons per stream day of lignite coal and would require use of 16,800 acre-feet of water annually from Lake Sakakawea. A Draft Environmental Impact Statement, DEIS–84–62, on this project was filed with the Environmental Protection Agency on November 13, 1984.

ADDRESSES: Copies of the FEIS are available for inspection at either of the following addresses and at libraries in the vicinity of the project. Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, Bureau of Reclamation, or the Regional Office of Environmental Affairs, at the above addresses.

Director, Office of Environmental Affairs, Bureau of Reclamation, Room 7425, Department of the Interior, Washington, DC 20240, Telephone: (202) 343–4991

Division of Management Support, General Services, Library Section, Code 950, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, Telephone: (303) 234–3019

Regional Director, Office of Environmental Affairs, Bureau of Reclamation, Missouri Basin Region, Federal Building, 316 North 26th Street, Billings, MT 59103, Telephone: (406) 657–6558.

Date: February 26, 1988.

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 88–4618 Filed 3–2–88; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Land Management

[AA–320–08–4212–02]

Information Collection Submitted for OMB Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collections requirement and related forms and explanatory material may be obtained by contacting the Bureau of Land Management's clearance officer at the phone number listed below. Comments and suggestions made on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget, Interior Department Desk Officer, Washington, DC 20503, telephone umber (202) 395–7340.

Title: Exchanges—General Procedures, 43 CFR Part 2200.

Abstract: The information collected is necessary for the initiation and completion of a land exchange with the Bureau of Land Management. The information aids the Bureau in determining the non-Federal party's eligibility and whether all statutory requirements have been met.

Frequency: Once.

Description of Respondents: Citizens of the United States, corporations subject to the laws of any State or of the United States, a State, or a political subdivision of a State desiring to propose an exchange of lands or interests in lands.

Annual Responses: 215.

Annual Burden Hours: 538.

Bureau Clearance Officer: Rick Iovaine, 202–653–8853.

Dated: January 26, 1988.

Guy E. Baier,

Deputy Assistant Director, Land and Renewable Resources.

[FR Doc. 88–4563 Filed 3–2–88; 8:45 am]

BILLING CODE 4310–84–M

[NV–930–08–4333–11; NV5–88–06]

Nevada; Temporary Closure of Certain Public Lands in the Las Vegas District for Management of the Gold Coast 250 Off-Highway Vehicle (OHV) Race

February 25, 1988.

ACTION: Temporary closure of certain Public Lands in the Las Vegas District, Clark County, Nevada, on and adjacent to the Gold Coast 250 race course, on March 5, 1988. Access will be limited to race officials, entrants, law-enforcement and emergency personnel, licensed permittees and right-of-way grantees.

SUPPLEMENTARY INFORMATION: Certain public lands in the Las Vegas District, Clark County, Nevada, will be temporarily closed to public access from 0001 hours, March 5, 1988, to 2000 hours, March 5, 1988, to protect persons, property, and public land resources on and adjacent to the 1988 Gold Coast 250 OHV race course. These temporary closures and restrictions are made pursuant to 43 CFR Part 8364. The public lands to be closed or restricted are those lands adjacent to and including roads, trails and washes identified as the 1988 Gold Coast 250 OHV race course. The following lands restricted or closed are described as: Sloan Area; T. 23 S., R. 59 E., all of sections 9, 10, 11, 13, 14, 15, 16,

21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36; T. 23 S., R. 60 E., all of sections 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, and 32; T. 24 S., R. 59 E., all of sections 1, 2, 3, 11, 12, 13, 24, 25, 26, 33, 34, 35, and 36; T. 24 S., R. 60 E., all of sections 5, 6, 7, 8, 17, 18, 19, 20, 29, and 30. Goodsprings Area; T. 23 S., R. 58 E., all of sections 9, 10, 11, 14, 15, 16, 22, 23, 24, 25, 26, 35, and 36; T. 24 S., R. 58 E., all of sections 2, 8, 9, 10, 11, 14, 15, 16, 17, 20, 21, 22, 26, 27, and 28. Ivanpah Area; T. 24 S., R. 58 E., all of section 36; T. 25 S., R. 58 E., all of sections 1, 12, 13, 24, 25, and 36; T. 25 S., R. 59 E., all of sections 6, 7, 18, 19, 30, 31, and 32; T. 26 S., R. 59 E., all of sections 4, 5, and 6.

The above legal land descriptions are for public lands within Clark County, Nevada. A map showing specific areas closed to public access is available from the following BLM offices: the Las Vegas District Office, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126, (702) 388–6403, and the Stateline Resource Area Office, 301, E. Stewart, P.O. Box 7384, Las Vegas, Nevada 89125, (702) 388–6627.

Any person who fails to comply with this closure order issued under 43 CFR Part 8364 may be subject to the penalties provided in 43 CFR 8360.7.

Dated: February 19, 1988.

Charles Frost,

Acting District Manager, Las Vegas District.

[FR Doc. 88–4566 Filed 3–2–88; 8:45 am]

BILLING CODE 4310–HC–M

[NM–030–08–4322–14]

Las Cruces District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The agenda topics for the meeting are:

1. Recommendations on FY89 range improvement projects.
2. Update on District FY88 8100 (range improvement) program.
3. Explanation of procurement procedures.
4. Discussion of funding procedures for range improvements.
5. Discussion of regulations pertaining to contracts.
6. Future composition of membership in terms of geographic representation.

DATE: The meeting will be held March 31, 1988 beginning at 10:00 a.m. Public comments will be heard by the Board at 1:15 p.m..

ADDRESS: The meeting will be held in the Las Cruces District Office conference room at 1800 Marquess, Las Cruces, NM 88005.

FOR FURTHER INFORMATION CONTACT: H. James Fox, District Manager, (505) 525–8228.

H. James Fox,

District Manager.

February 24, 1988.

[FR Doc. 88–4589 Filed 3–2–88; 8:45 am]

BILLING CODE 4310–FB–M

[AZ–940–08–4212–13; A–21806]

Conveyance of Public Land; Reconveyed Land Opened to Entry in Mohave County, AZ

February 25, 1988.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and order providing for opening of surface estate in Arizona.

SUMMARY: This notice is to inform the public of the conveyance of public land and of the opening of the surface estate in 40 acres acquired by the United States in Private Exchange A–21806.

FOR FURTHER INFORMATION CONTACT: Angela Mogel, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011, (602) 241–5534.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716), the following described land was transferred out of Federal ownership in exchange for privately-owned land. The land transferred into private ownership is described as follows:

Gila and Salt River Meridian, Arizona

T. 19 S., R. 25 E.,
Sec. 17, lot 16;
Sec. 18, S½SE¼NE¼.

The area described aggregates 61.24 acres, according to the official plat of survey of said land, on file in the Bureau of Land Management.

The land acquired by the United States is described as follows:

Gila and Salt River Meridian, Arizona

T. 19., R. 19 W.,
Sec. 23, SE¼SE¼.

The area described aggregates 40.00 acres, according to the official plat of survey of said land, on file in the Bureau of Land Management.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land and the acquisition of private land by the Federal Government.

At 9:00 a.m. on April 4, 1988, the surface of the land acquired by the Federal Government in this exchange will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9:00 a.m. on April 4, 1988, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The mineral estate remains in private ownership and, therefore, will not be subject to entry under the United States Mining or Mineral Leasing laws.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 88–4562 Filed 3–2–88; 8:45 am]

BILLING CODE 4310–32–M

[AA–55607; AK 040–08–4213–11]

Realty Action; Classification of Public Lands for Recreation and Public Purposes Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described public lands, located approximately 40 miles north of Anchorage, Alaska in the Matanuska-Susitna Borough have been classified as suitable for lease under the Recreation and Public Purposes Act (43 U.S.C. 869 *et seq.*)

Section 26, Lot 22, Township 17 North, Range 2 East, Seward Meridian, containing 0.94 acres.

Pioneer Peak Baptist Church has applied for this lot to provide parking for their church which is located on a contiguous lot. They will be offered a lease at fair market value; they may apply for purchase at a later date. The public lands are subject to a highway right-of-way administered by the State of Alaska, Department of Transportation and Public Facilities (DOT/PF).

The lease is subject to the following special stipulations:

1. Land within the Old Glenn Highway right-of-way shall not be cleared prior to obtaining an airspace agreement from DOT/PF.
2. A strip of undisturbed vegetation shall be left on the northern and western boundaries of the parcel.

SUPPLEMENTARY INFORMATION: Detailed information concerning this action can be obtained by contacting Martin Hansen at the Anchorage District Office (907) 267–1216.

For a period of 45 days from the date of publication of this notice in the

Federal Register interested parties may submit comments to the District Manager, Bureau of Land Management, 6881 Abbott Loop Road, Anchorage, Alaska 99507. The effective date of this classification will be 60 days from the date of **Federal Register** publication provided no protests or adverse comments are received.

John J. Rumps,

District Manager.

[FR Doc. 88-4579 Filed 3-2-88; 8:45 am]

BILLING CODE 4310-JA-M

[AZ-020-08-4212-13; A 23110]

Realty Action; Exchange of Public Land; Pima County, AZ

The following described public land has been determined to be suitable for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

T. 12 S., R. 11 E.,
Sec. 25, NE¼NE¼, N½SE¼NE¼, SW¼SE¼NE¼, E½W½, W½E½, SW¼NW¼, W½SW¼.

Comprising 510 acres valued at $965,000.

In exchange, BLM will acquire the following legally described private land of Rancho Verdad, a general partnership.

Gila and Salt River Meridian, Yavapai County, Arizona

T. 11 N., R. 3 E.,
Sec. 20, lots 13 and 14;
Sec. 21, lots 1 through 10, incl., lots 15 and 16;
Sec. 25, lots 1 and 4, metes and bounds portions of lots 2 and 3, W½E½, W½;
Sec. 28, E½NE¼, SW¼NE¼;
Sec. 29, N½NW¼;
Sec. 33, SW¼.

Comprising 1,580.87 acres, more or less, valued at $943,000.

Rancho Verdad will make a money payment of $22,000 for equalization of value.

The public land will be transferred subject to the following terms and conditions:

A reservation to the United States for rights-of-way for ditches and canals under the Act of August 30, 1890; 26 Stat. 391; U.S.C. 945.

Rights-of-way granted under the Act of March 4, 1911; 36 Stat. 1253; 43 U.S.C. 961; A 8979 to Mountain States Telephone and Telegraph Company and AR 017590 to Trico Electric Cooperative.

Notice of realty action A 20346-N is hereby terminated as it affects the public land in this notice.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the public land, as described in this Notice, from appropriation under the public land laws, and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described land shall terminate upon issuance of a document conveying such land or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

Detailed information concerning this exchange can be obtained from the Phoenix District Office, telephone (602) 863-4464. For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register,** interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Henri R. Bisson,

District Manager.

Date: February 22, 1988.

[FR Doc. 88-4560 Filed 3-2-88; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-08-4212-13; A 18270]

Realty Action; Exchange of Public Land; Pima County, AZ

Public Law 94-578 of October 21, 1976, revised the boundary of the Saguaro National Monument and provided for acquisition of private land within the boundary for National Park Service (NPS) administration. This law authorized exchange as a means of acquisition.

The following described public land managed by BLM has been selected and has been determined to be suitable for disposal by exchange as provided under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

T. 12 S., R. 11 E., Gila and Salt River Meridian, Arizona
Sec. 25, SE¼SE¼N¼E, E½SE¼.

Comprising 90 acres with a fair market value of $212,500.

In exchange, BLM will acquire and transfer to NPS the following legally described private land of Rancho Verdad, a partnership.

T. 12 S., R. 12 E., Gila and Salt River Meridian, Arizona
Sec. 31, Lot 1, NE¼NW¼.

Comprising 77.16 acres, more or less, with a fair market value of $210,000.

The public land will be transferred subject to the following terms and conditions:

A reservation to the United States for rights-of-way for ditches and canals under the Act of August 30, 1890; 26 Stat. 391; U.S.C. 945.

Right-of-way AR 017590 granted to Trico Electric Cooperative under the Act of March 4, 1911; 36 Stat. 1253; 43 U.S.C. 961.

Notice of realty action A 20346-N is hereby terminated as it affects the public land in this notice.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the public land, as described in this Notice, from appropriation under the public land laws, and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described land shall terminate upon issuance of a document conveying such land or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

Detailed information concerning this exchange can be obtained from the Phoenix District Office, telephone (602) 863-4464. For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register,** interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Date: February 22, 1988.

Henri R. Bisson,

District Manager.

[FR Doc. 88-4561 Filed 3-2-88; 8:45 am]

BILLING CODE 4310-32-M

[AZ-040-08-4212-12; A 21806, A 23047, A 23098]

Realty Action; Designation of Public Lands To Be Included in State Exchange in Cochise, Graham and Pinal Counties, AZ, and Cancellation of Private Exchange and State Exchange

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of public lands for transfer out of federal ownership in exchange for lands owned by the State of Arizona and cancellation of a private exchange and a State exchange.

SUMMARY: BLM proposes to exchange public land with the State of Arizona in order to achieve more efficient management of the public land through consolidation of ownership.

All of the public land in the following described sections and subdivisions are being considered for disposal by exchange pursuant to Section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

T. 5 S., R. 16 E.,
Sec. 28, E½,SW¼; (west of San Carlos Indian Reservation)
Sec. 29, all;
Sec. 33, all. (west of San Carlos Indian Reservation)
T. 6 S., R. 15 E.,
Sec. 1, lots 1–7 incl., SW¼NE¼,S½NW¼, SW¼,W½SE¼;
Sec. 10, E½;
Sec. 11, all;
Sec. 12, lots 1–4 incl., W½E½,W½.
T. 6 S., R. 16 E.,
Sec. 3, W½W½W½W½; (west of San Carlos Indian Reservation)
Sec. 4, lots 1–4 incl., S½N½S½:
Sec. 6, lots 6 and 7;
Sec. 13, South of the San Carlos Indian Reservation Boundary;
Sec. 23, South of the San Carlos Indian Reservation Boundary;
Sec. 24, South of the San Carlos Indian Reservation Boundary;
T. 6 S., R. 17 E.,
Sec. 7, South of the San Carlos Indian Reservation Boundary;
Sec. 8, South of the San Carlos Indian Reservation Boundary.
T. 9 S., R. 26 E.,
Secs. 22, 25, 26, 27, 35.
T. 10 S., R. 26 E.,
Secs. 1, 3, 4, 9–12.
T. 15 S., R. 31 E.,
Secs. 1, 3, 4;
Sec. 8, E½;
Secs. 9, 10, 13, 15, 16;
Sec. 17, E½;
Sec. 20, E½;
Secs. 21, 22, 23, 25, 26, 27.
T. 15 S., R. 32 E.,
Secs. 3–11;
Sec. 14, lot 1;
Sec. 15, lots 1, 2, 3, NW¼NW¼;
Secs. 17, 18, 19, 30, 31.
T. 16 S., R. 30 E.,
Secs. 1, 12, 13;
Sec. 11, NE¼N½SE¼;
Sec. 14, SW¼NE¼;
Sec. 23, S½SE¼;
Secs. 24, 25.
T. 16 S., R. 31 E.,
Secs. 1, 4–8, 11, 12, 13, 17–21, 28, 29, 30.
T. 17 S., R. 21 E.,
Sec. 13.
T. 17 S., R. 32 E.,
Secs. 6, 10, 11, 15, 21, 22, 23, 26, 27.
T. 19 S., R. 21 E.,
Secs. 14, 15.
T. 19 S., R. 22 E.,
Secs. 5, 6, 9, 19, 21, 22, 23, 25–28.
T. 19 S., R. 23 E.,
Sec. 30.
T. 19 S., R. 24 E.,
Sec. 4.
T. 19 S., R. 25 E.,
Sec. 18.
T. 19 S., R. 27 E.,
Sec. 17.
T. 20 S., R. 27 E.,
Sec. 1, lot 1;
Secs. 22, 24, 25, 27, 28, 34.
T. 20 S., R. 28 E.,
Secs. 6, 7, 18, 19, 30;
Sec. 31, lot 4, SE¼SW¼.
T. 21 S., R. 23 E.,
Secs. 20–23, 23, 26–30, 33.
T. 21 S., R. 25 E.,
Secs. 29, 31, 33.
T. 21 S., R. 28 E.,
Secs. 5–8, 18, 19, 20, 30, 35.
T. 21 S., R. 30 E.,
Sec. 18, 19, 30.
T. 22 S., R. 23 E.,
Secs. 4, 5, 6.
T. 22 S., R. 24 E.,
Secs. 20, 22, 24, 25.
T. 22 S., R. 25 E.,
Secs. 5, 19, 28, 29, 30.
T. 22 S., R. 28 E.,
Secs. 6, 7, 18, 23, 30, 34.
T. 22 S., R. 29 E.,
Secs. 15, 24, 25, 31.
T. 22 S., R. 32 E.,
Sec. 17, NW¼,N½SW¼,SE¼SW¼;
Sec. 20, NE¼NW¼,S½NW¼,SW¼.
T. 23 S., R. 23 E.,
Secs. 4, 8, 9, 15, 18, 19, 22, 28.
T. 23 S., R. 28 E.,
Secs. 3, 10. 11.
T. 24 S., R. 28 E.,
Secs. 11, 13.
T. 24 S., R. 29 E.,
Secs. 1, 5, 6, 15, 17.

The lands described above comprise 64,734.63 acres, more or less.

Subject to valid existing rights, the above described lands will be segregated from entry under the mining laws, except the mineral leasing laws, effective upon publication of this notice in the **Federal Register.** The segregative effect will terminate upon issuance of patent to the State of Arizona or upon expiration of two years from the effective date, or by publication of a Notice of Termination by the Authorized Officer, whichever comes first.

Publication of this notice will cancel Private Exchange A 21806 published in the **Federal Register** March 27, 1986 as to the N½SE¼NE¼ sec. 18, T. 19 S., R. 25 E. and will cancel State Exchange A 20347 published in the **Federal Register** January 15, 1987.

Final determination of disposal will await completion of environmental analyses.

DATE: For a period of 45 days from date of publication in the **Federal Register,** interested parties may submit comments to the Safford District Manager, 425 E. 4th Street, Safford, Arizona 85546.

SUPPLEMENTAL INFORMATION: Detailed information concerning the exchange is available at the Safford District Office.

Vernon L. Saline,
Acting District Manager.

[FR Doc. 88–4596 Filed 3–2–88; 8:45 am]
BILLING CODE 4310-32-M

[CA-010-08-4212-13; CA 21707]

Realty Action; Exchange of Public and Private Lands in Placer and Santa Clara Counties, CA

AGENCY: Bureau of Land Management (BLM), Interior.

SUMMARY: The following described public land has been determined to be suitable for disposal by exchange under the authority of section 206 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (43 U.S.C. 1716): (Not all of the lands identified below will be involved in the exchange; some may be deleted to eliminate possible conflicts that could arise during processing. The final selection of properties will be made to achieve comparable values between the selected public land and the offered private land.)

Selected Public Land

Mount Diablo Meridian, California, Santa Clara County

T. 7 S., R. 4 E., MDM
Sec. 25: SE¼ NE¼, SE¼, SE¼ SW¼, SW¼ NW¼
Sec. 26: S½ SE¼
Sec. 34: W½, S½ NE¼, SE¼
Sec. 35: N½ SW¼, N½ SE¼, SW¼ SE¼
T. 7 S., R. 5 E., MDM
Sec. 31: lots 1, 2, 3, & 4
T. 8 S., R. 4 E.,
Sec. 1: lots 1, 4, & 8
Sec. 2: lots 1, 2, 3, 4, 5, 6, 8, 12, & 13
Sec. 3: lots 1, 2, 7, 8, 9, 10, 15, & 16
T. 8 S., R. 5 E.,
Sec. 6: lots 4 & 5

Aggregating 2534.18 acres, more or less.

In exchange for the above parcels, the United States will acquire the following described private land from the Trust for Public Land, 116 New Montgomery Street, San Francisco, California 94105.

Offered Private Land

Mount Diablo Meridian, Placer County, California

T. 15 N., R. 10 E.,

Parcel A

Sec. 11: S½ SE¼, SE¼ NE¼ SE¼, E½ NE¼ NE¼ SE¼, lots 6 & 10 (177.43 acres)

Parcel B

Sec. 15: Lot 49, M.S. 321 (28.99 acres)

Parcel C

Secs. 21 & 22: Mineral Survey 3710 (99.58 acres)

Parcel D

Sec. 29: lots 5, 10, 11, & 12 (164.57 acres)

Aggregating 470.57 acres, more or less.

The United States will be acquiring the surface only and not the mineral estate for Parcel A, and a minimum of 2/5ths undivided interest in Parcel B; with the above exceptions the exchange would involve the entire surface and mineral estates for both the selected and offered lands.

The purpose of this exchange is to acquire non-federal lands located within the North Fork of the American River Canyon. Because of its unspoiled nature and the spectacular scenery within the canyon, the river was designated a Wild and Scenic River by Congress in 1978. The acquisition, which involves over 1½ miles of river, will afford added protection for this valuable resource. In contrast, the Federal land to be exchanged has limited value to the public; the vast majority is extremely steep and brushy. In addition it is land-locked and completely inaccessible to the public. The action has been discussed with local public officials and is consistent with the Bureau's land use plans and regulations. In view of the above, this exchange is considered to be in the public interest.

The values of the properties to be exchanged will be approximately equal; full equalization of values will be achieved by payment to the United States by the Trust for Public land in an amount not to exceed 25 percent of the total value of the lands to be transferred out of Federal ownership.

The Federal lands to be transferred will be subject to the following reservations, terms and conditions:

(1) A reservation to the United States for a right-of-way for ditches and canals constructed under the authority of the Act of August 20, 1890 (43 U.S.C. 945).

(2) Subject to an existing telephone line right-of-way granted by the United States to Evans Telephone Company, its successors, and assigns, by R/W grant CA 13051 under the authority of the Act of October 21, 1976.

(3) Subject to road rights-of-way granted by the United States for existing roads to Stanley Stonier (CA 14327), James Stonier and James Stonier Jr. (CA 21426), and George Boeger (CA 21705), their successors and assigns, under the authority of the Act of October 21, 1976.

(4) Grazing operators that will have their allotments affected by this exchange are entitled to a 2-year adjustment period. However, a lessee may waive this 2-year notice.

(5) Clearances for archeology and rare plants shall be granted prior to conveyance of title.

SUPPLEMENTARY INFORMATION: Publication of this notice in the **Federal Register** segregates the public lands from settlement, location and entry under the public land laws and the mining laws for a period of two years from the date of first publication.

FOR FURTHER INFORMATION CONTACT: Mike Kelley, Folsom Resource Area Office, (916) 985–4474, at the address listed below. Also available for review is the environmental assessment/land report.

DATE: For a period of 45 days from the first date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Area Manager, Folsom Resource Area.

ADDRESS: Comments should be sent to the Area Manager, Folsom Resource Area, 63 Natoma Street, Folsom, California 95630; (916) 985–4474. Any adverse comments will be forwarded to and evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of the Interior.

Date: February 24, 1988.

D.K. Swickard,

Area Manager.

[FR Doc. 88–4567 Filed 3–2–88; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12; C–4–76]

Filing of Plat of Survey; California

February 23, 1988.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Plumas County

T. 26 N., R. 9 E.

2. This supplemental plat of section 10, Township 26 North, Range 9 East, Mount Diablo Meridian, California, was accepted February 11, 1988.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Plumas National Forest.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Public Information Section.

February 23, 1988.

[FR Doc. 88–4564 Filed 3–2–88; 8:45 am]

BILLING CODE 4310–40–M

[CA–940–07–4520–12 Group 928]

Filing of Plat of Survey; California

February 23, 1988.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Humboldt Meridian, Del Norte County

T. 13 N., R. 2 E.

2. This plat, representing the dependent resurvey of a portion of the south, east and north boundaries and a portion of the subdivisional lines, and the survey of the subdivision of section 2, 11, 14, and 24, Township 13 North, Range 2 East, Humboldt Meridian, California, under Group No. 928, was accepted February 11, 1988.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Six Rivers National Forest, Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

February 23, 1983.

Herman J. Lyttge,

Chief, Public Information Section.

[FR Doc. 88–4565 Filed 3–2–88 8:45 am]

BILLING CODE 4310–40–M

[MT–920–08–4520–11]

Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of suspension of filing of plats of survey.

SUMMARY: Official filing of plats for Township 1 South, Range 6 East; Township 1 North, Range 6 East; Township 2 North, Range 5 East; Township 2 North, Range 6 East; and Township 3 North, Range 5 East, Principal Meridian, Montana, has been suspended. Subsequent to the **Federal Register** notice published January 22, 1988, an official protest was received by the Montana State Office on February 16, 1988.

The plats of survey of T. 1 S., R. 6 E.; T. 1 N., R. 6 E.; T. 2 N., R. 5 E.; T. 2 N., R. 6 E.; and T. 3 N., R. 5 E., Principal Meridian, Montana, will remain in the open file. These plats will not be officially filed until the day after all protest(s) have been dismissed or accepted and become final or appeals from dismissal affirmed.

Inquiries concerning these lands should be addressed to the Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107.

Dated: February 26, 1988.

Marvin LeNoue,

Acting State Director.

[FR Doc. 88-4597 Filed 3-2-88; 8:45 am]

BILLING CODE 4310-DN-M

[MT-070-08-4332-06]

Final Decision on Intensive Wilderness Inventory; Sleeping Giant Units, MT

AGENCY: Bureau of Land Management, Butte District Office, Interior.

ACTION: Notice.

SUMMARY: This final decision is issued under the authority of Section 202 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976, and the guidelines provided in Steps 5 and 6 of the Wilderness Inventory Handbook of September 27, 1978, issued by the U.S. Department of the Interior, Bureau of Land Management.

The public comment period for the proposed intensive inventory decision announced in the December 15, 1987, **Federal Register** by the Butte District Office ended January 30, 1988. The two units affected are Sheep Creek (10,925 acres) and Jackson Peak Add-on (375 acres). The Jackson Peak Add-on is contiguous to the Sleeping Giant Wilderness Study Area which was established in 1981. The Sheep Creek Unit is near the Sleeping Giant WSA but is separated from it by a powerline and a maintenance road. The Sleeping Giant WSA (6,112 acres) will be studied by the BLM under Section 603 of FLPMA for potential wilderness designation during the next 2 years.

The two intensive inventory units are located some 25 miles north of Helena in Western Montana.

The final decision identifies the entire Jackson Peak Add-on and 3,967 acres of the Sheep Creek Unit as wilderness study areas and removes the remaining 6,958 acres in the Sheep Creek Unit from further wilderness consideration. The wilderness inventories are on file and available for review at the Butte District Office; North Parkmont; Butte, Montana 59702.

This decision becomes effective 30 days from the date of this notice provided no protests are received. During this 30 day period, persons affected by the decision can file a written notice of protest, including a clear and concise statement of reasons. This notice should be filed with: State Director (930), Bureau of Land Management, P.O. Box 36800, 222 North 32nd Street, Billings, Montana 59107.

Protests will be received by the State Director who may sustain, vacate, or modify this decision. Any person adversely affected by the State Director's decision, on their written protest, may subsequently appeal under the provision of 43 CFR, Part 4.

Marvin LeNoue,

State Director.

February 26, 1988.

[FR Doc. 88-4598 Filed 3-2-88; 8:45 am]

BILLING CODE 4310-DN-M

[NM-940-08-4220-11; NM NM 52384]

Proposed Continuation of Withdrawal; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation, U.S. Department of the Interior, proposes that a 330.37-acre withdrawal for the Rio Grande Project continue for an additional 50 years. The land would remain closed to the public land laws generally including location and entry under the mining laws, but has been and will remain open to leasing under the mineral leasing laws.

EFFECTIVE DATE: Comments should be received by June 1, 1988.

FOR FURTHER INFORMATION CONTACT: Kay Thomas, BLM New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87504-1449, 505-988-6589.

The Bureau of Reclamation, U.S. Department of the Interior, proposes that the existing land withdrawal made by Secretarial Order of March 27, 1911, be continued for a period of 50 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

New Mexico Principal Meridian

T. 16 S., R. 4 W.,
Sec. 30, SE¼SW¼
T. 16 S., R. 5 W.,
Sec. 36, lots 1-4, 12-15, N½NE¼, SW¼NE¼, Pt. lots 5, 10, 11, Pt. SE¼SE¼NW¼ (that part excluded from Quitclaim Deeds from U.S. dated January 28, 1921).

The area described contains approximately 330.37 acres in Sierra County.

The purpose of the withdrawal is to protect the lands for irrigation, storage, and flood control facilities at the Caballo Dam and Reservoir Reservation and the Percha Diversion Dam and Reservation facilities. The withdrawal closed the described lands to mining but not mineral leasing. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the New Mexico State Director to the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the resident, and Congress, who will determine whether or not the withdrawal will be continued, and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: February 26, 1988.

Dennis R. Erhart,

State Director.

[FR Doc. 88-4568 Filed 3-2-88; 8:45 am]

BILLING CODE 4310-FB-M

Minerals Management Service

Outer Continental Shelf Advisory Board, Policy Committee; Notice and Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. No. 92-463, 5 U.S.C. Appendix 1, and the Office of Management and Budget's Circular No. A-63, Revised. The Policy Committee of the Outer Continental Shelf (OCS) Advisory Board will meet

during the period 8:30 a.m. to 4:45 p.m., April 6–7, 1988, at the Sheraton Centre Hotel in New York, New York (212–581–1000).

The agenda for the meeting will cover the following principal subjects:

April 6

- National Oil and Gas Assessment
- Subcommittee Report on 5-Year Program Process
- North, Mid, and South Atlantic Current Activities

April 7

- Potential Sand and Gravel Mining New York Bight
- Marine Mining Update
- Consolidated Rulemaking

The meeting is open to the public. Upon request, interested parties may make oral or written presentations to the Committee. Such requests should be made no later than March 15, 1988, to the OCS Policy Committee, Minerals Management Service, Department of the Interior, 18th and C Streets, NW., Room 4230, Washington, DC 20240.

Requests to make oral statements should be accompanied by a summary of the statement to be made. For more information, contact the Executive Secretary, John B. Rigg, at 202–343–3530.

Minutes of the meeting will be available for public inspection and copying at the Minerals Management Service, Department of the Interior, 18th and C Streets, NW., Room 2070, Washington, DC 20240.

Dated: February 29, 1988.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 88–4649 Filed 3–2–88; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31219]

Central Montana Rail, Inc., Lease and Operation Exemption; Certain Lines of the State of Montana

The Montana Department of Commerce (MDOC) has filed a notice on behalf of Central Montana Rail, Inc. (CMR), for CMR to lease and operate 29.05 miles of rail line which the State of Montana is acquiring from Burlington Northern Railroad Company (BN), extending from milepost 0.4 at Moccasin, MT, in Judith Basin County, to milepost 64.35, near Lewistown, MT, in Fergus County. The transaction is expected to be consummated March 1, 1988. Any comments must be filed with the Commission and served on: David P. Desch, Montana Department of Commerce, 1424 Ninth Avenue, Helena, MT 59620; and L.M. Stroik, Assistant General Solicitor, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102.

A transaction relating to the acquisition of the line by MDOC is the subject of a notice of exemption filed concurrently in Finance Docket No. 31218, *Montana Department of Commerce—Acquisition Exemption—Certain Lines of Burlington Northern Railroad Company*. MDOC will lease the rail line to CMR for operation by CMR in conjunction with existing rail lines currently operated by CMR under a lease and operating agreement with MDOC.

MDOC and CMF must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470, is achieved. Ex Parte No. 392 (Sub-No. 1), *Class Exemption for the Acquisition and Operation of Rail Lines under 49 U.S.C. 10901*, ——— I.C.C.2d ———, served February 17, 1988.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: February 18, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88–3988 Filed 3–2–88; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31218]

Montana Department of Commerce; Acquisition Exemption; Certain Lines of Burlington Northern Railroad Co.

The Montana Department of Commerce (MDOC) has filed a notice of exemption to acquire 29.05 miles of rail line owned and operated by Burlington Northern Railroad Company. The line extends from milepost 0.4 at Moccasin, Mt, in Judith Basin County, to milepost 64.35, near Lewistown, MT, in Fergus County. The transaction is expected to be consumated on March 1, 1988. Any comments must be filed with the Commission and served on: David P. Desch, Montana Department of Commerce, 1424 Ninth Avenue, Helena, MT 59620; and L. M. Stroik, Asssitant General Solicitor, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Forth Worth, TX 76102.

A transaction relating to the operation of the involved rail line by Central Montana Rail, Inc. (CMR) is the subject of a notice of exemption filed concurrently in Finance Docket No. 31219, *Central Montana Rail, Inc.—Lease and Operation Exemption—Certain Lines of the State of Montana*.

MDOC and CMR must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470, is achieved. Ex Parte No. 392 (Sub-No. 1), *Class Exemption for the Acquisition and Operation of Rail Lines under 49 U.S.C. 10901*, ——— I.C.C. 2d ———, served February 17, 1988.

MDOC intends to lease the rail line to CMR for operation in conjunction with existing rail lines currently operated by CMR under a lease and operating agreement with MDOC.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: February 18, 1988.

By the Commission, Jane F. MacKall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88–3989 Filed 3–2–88; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB–1 (Sub-No. 207X)]

Chicago and North Western Transportation Co.; Exemption Abandonment in Butler County, A

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption and interim trail use or abandonment.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by Chicago and North Western Transportation Company, of 6.4 miles of track between milepost 287.4 near Clarksville and milepost 282.0 near Shell Rock, in Butler County, IA, subject to standard employee protective conditions, and subject to the terms and conditions for interim trail use and/or rail banking under 16 U.S.C. 1247(d).

DATES: The exemption will be effective on April 2, 1988. Petitions for stay of the

exemption must be filed by March 18, 1988, and petitions for reconsideration must be filed by March 28, 1988. Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2) [1] must be filed by March 14, 1988.

ADDRESSES: Send pleadings referring to Docket No. AB-1 (Sub-No. 207X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Christopher A. Mills, One—North Western Center, Chicago, IL 60606

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245 (TDD for hearing impaired: (202) 275-1721)

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357/4359 (DC Metropolitan area), (assistance for the hearing impaired is available through TDD services (202) 275-1721 or by pickup from Dynamic Concepts, Inc., in Room 2229 at Commission headquarters).

Decided: February 25, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Sterrett, Simmons and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 88-4630 Filed 3-2-88; 8:45 am]

BILLING CODE 7035-01-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in the third floor conference room, 227 Public Ledger Building, 6th and Chestnut Streets, Philadelphia, Pennsylvania, on March 29, 1988, beginning at 8:30 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 5 U.S.C., section 1242(a)(1)(B).

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) that the topic of the meeting falls within the exceptions to the open meeting requirement set forth in Title 5 U.S.C., section 552(c)(9)(B), and that the public interest requires that the meeting be closed to public participation.

February 29, 1988.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 88-4631 Filed 3-2-88; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Water Act; United States v. Richard Olson

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on February 16, 1988, a proposed consent decree in *United States v. Richard Olson*, Civil Action No. A86-352, was lodged with the United States District Court for the District of Alaska. The complaint field by the United States alleged violations of the Clean Water Act by defendant due to discharges of pollutants from defendant's placer gold mine into Deadwood Creek. The consent decree provides for payment of a civil penalty in the amount of $3,000 and for injunctive relief to prevent defendant from operating a placer mine that discharges pollutants into waters of the United States unless the mine is in compliance with a valid NPDES permit and the compliance plan contained in the consent decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Richard Olson*, D.J. Ref. No. 90-5-1-1-2679. The proposed consent decree may be examined at the Office of the United States Attorney, Federal Building and U.S. Courthouse, 701 C Street, Room C-252, Anchorage, Alaska 99513, and at the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.70 payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 88-4556 Filed 3-2-88; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pursuant to Safe Drinking Water Act; Roskee Corp.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on February 19, 1988, a proposed Consent Decree in *United States* v. *Roskee Corporation*, Civil Action No. 87-0048-0(CS), was lodged with the United States District Court for the Western District of Kentucky. The complaint sought the imposition of injunctive relief and civil penalties under the Safe Drinking Water Act against the defendant for failure to comply with several Underground Injection Control Program ("UIC") regulations promulgated under that Act in their operation of their enhanced recovery underground injection oil wells located in the Reed East Field, Henderson County, Kentucky. Those violations included operation of underground injection wells without authorization under a UIC permit issued by the U.S. Environmental Protection Agency.

The Consent Decree requires the defendant to pay a civil penalty of $25,000. Defendant agreed in that decree to obtain UIC permits for its four active injection wells, and to plug and abandon five inactive wells and any active wells for which it does not obtain a UIC permit.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Roskee Corporation*, D.J. Ref. 90-5-1-1-2758.

The proposed Consent Decree may be examined at the office of the United States Attorney, 211 U.S. Post Office & Courthouse Building, 601 W. Broadway, Louisville, Kentucky, the Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia; and at the Environmental Enforcement Section,

[1] *See* Ex Parte No. 274 (Sub-No. 16), *Exempt of Rail Abandonment—Offers of Finan Assist.* 4 I.C.C. 2d 164 (1987), final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

Land & Natural Resources Division, U.S. Department of Justice, 10th & Pennsylvania Avenue, NW., Washington, DC 20530. Copies of the proposed Decree may be obtained by mail from the Environmental Enforcement Section of the Department of Justice, Land and Natural Resources Division, P.O. Box 7611, Benjamin Franklin Station, Washington, DC 20044–7611, or in person at the U.S. Department of Justice Building, Room 1517, 10th Street and Pennsylvania Avenue, NW., Washington, DC. In requesting a copy, please enclose a check in the amount of $1.20 payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 88–4569 Filed 3–2–88; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Controlled Substances; Proposed 1988 Aggregate Production Quota for 2-Amino-4-Methyl-5-Phenyl-2-Oxazoline, (4-Methylaminorex)

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of a proposed 1988 aggregate production quota.

SUMMARY: This notice proposes a 1988 aggregate production quota for 4-methylaminorex, a Schedule I controlled substance.

DATE: Comments or objections must be received on or before April 4, 1988.

ADDRESS: Send comments or objectives to the Administrator, Drug Enforcement Administration, 1405 I Street, NW., Washington, DC 20537, Attn: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, 1405 I Street, NW., Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S. Code 826) requires that the Attorney General establish on an annual basis aggregate production quotas for all controlled substances listed in Schedules I and II. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

Recently, the Drug Enforcement Administration received an application for a manufacturing quota for 4-methylaminorex, a Schedule I controlled substance. This substance, when synthesized, will be made into analytical standards.

The Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by section 306 of the Controlled Substances Act of 1970 (21 U.S. Code 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations, hereby proposes the 1988 aggregate production quota for 4-methylaminorex expressed in grams of anhydrous base.

Basic class	Proposed 1988 aggregate production quota (grams)
4-methylaminorex	5

All interested persons are invited to submit comments or objections in writing regarding this proposal. Comments or objections should be submitted to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative, and must be received by April 4, 1988. If a person believes that one or more issues raised by him warrant a hearing, he should so state and summarize the reason for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall order a public hearing by a notice in the **Federal Register**, summarizing the issues to be heard and setting the time for the hearing.

Pursuant to sections (3)(c)(3) and 3(e)(2)(C) of Executive Order 12291, the Director of the Office of Management and Budget has been consulted with respect to these proceedings.

The Administrator hereby certifies that this matter will have no significant impact upon small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S. Code 601, *et seq.* The establishment of annual production quotas for Schedule I and II controlled substances is mandated by law and by international commitments of the United States. Such quotas impact predominantly upon major manufacturers of the affected controlled substances.

Dated: February 16, 1988.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 88–4628 Filed 3–2–88; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 87–33]

Revocation of Registration; Roberto Hajje, M.D.

On March 6, 1987, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Roberto Hajje, M.D., Respondent, of 1100 West Avenue, Miami Beach, Florida, proposing to revoke DEA Certificate of Registration AH8370140, and to deny any pending applications for renewal of that registration. The bases for the issuance of the Order to Show Cause were that Respondent was recently convicted of felony offenses relating to controlled substances, and that his continued registration was inconsistent with the public interest.

On April 1, 1987, Respondent, through counsel, filed a timely request for a hearing on the grounds presented in the Order to Show Cause. The matter was docketed before Administrative Law Judge Francis L. Young.

On September 3, 1987, Government counsel filed a motion to amend the Order to Show Cause and a motion for summary disposition on the ground that Respondent was no longer authorized to practice medicine in the State of Florida, and, consequently, was no longer authorized to handle controlled substances in that state. With the motions, Government counsel attached copies of the Florida Department of Professional Regulation, Board of Medicine, stipulation and final order suspending Respondent's medical license in that state, effective August 11, 1987. Respondent made no filing in opposition or response to the Government's motion.

On December 15, 1987, the Administrative Law Judge issued his opinion recommending the revocation of Respondent's DEA Certificate of Registration, and the denial of any pending applications for renewal, on the ground that Respondent is not currently authorized to handle controlled substances in the State of Florida. Neither Respondent's counsel, nor Government counsel, filed any exceptions to the Administrative Law Judge's recommendation.

After a careful review of the entire record in this matter, the Administrator

adopts the Administrative Law Judge's recommendation.

The Administrator finds that the Florida Department of Professional Regulation, Board of Medicine, suspended Respondent's license to practice medicine in that state, effective August 11, 1987. Therefore, Respondent is no longer authorized to handle controlled substances in that state.

The Drug Enforcement Administration does not have the authority to maintain the registration of a practitioner who is not duly authorized to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 832(f) and 8249(a)(3). The Administrator has consistently so held. See *Fazal Ahmad, M.D.*, Docket No. 86–46, 51 FR 9543 (1986); *Avner Kauffman, M.D.*, Docket No., 85–8, 50 FR 34208 (1985); and *Agostino Carlucci, M.D.*, Docket No. 82–20, 49 FR 33184 (1984). In the instant case, it is clear that Respondent is not currently authorized to handled controlled substances in the State of Florida. Without the appropriate state authority to handle controlled substances, Respondent is not currently entitled to possess a DEA Certificate of Registration.

Since there is no dispute regarding Respondent's lack of both state and Federal authority to handle controlled substances, the Administrative Law Judge properly granted the Government's motion for summary disposition. When no question of fact remains or when the facts are agreed, a plenary adversary administrative proceeding is not required even though the statute prescribes a hearing. In such situations, the rationale is that Congress did not not intend for the Agency to perform the meaningless task of conducting a hearing when no issues remain in dispute. See *United States v. Consolidated Mines and Smeltting Co., Ltd.*, 445 F.2d 432, 453 (9th Cir. 1971); *N.L.R.B. v. International Association of Bridge Structural and Ornamental Ironworkers, AFL–CIO*, 549 F.2d 634 (9th Cir. 1977); *Alfred Tennyson Smurthwaite, M.D.*, Docket No. 77–29, 43 FR 11873 (1978); and *Philip E. Kirk, M.D.* Docket No. 82–36, 48 FR 32887 (1983), aff'd *sub nom Kirk v. Mullen*, 749 F. 2d 297 (6th Cir. 1984).

Therefore, based on upon Respondent's lack of state authority to handled controlled substances, the Administrator concludes that Respondent's DEA Certificate of Registration must be revoked. Pursuant to the authority vested in him by 21 U.S.C 823 and 824 and 28 CFR 0.100(b), the Administrator of the Drug Enforcement Administration orders that DEA Certificate of Registration AH8370140 be, and it hereby is, revoked. The Administrator further orders that any pending applications for renewal of said registration be, and they hereby are, denied.

This order is effective March 3, 1988.

Dated: February 25, 1988.

John C. Lawn,

Administrator.

[FR Doc. 88–4580 Filed 3–2–88; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 87–17]

Revocation of Registration; John J. Lacue, D.M.D.

On January 8, 1987, the Administrator of the Drug Enforcement Administration (DEA), issued an Order to Show Cause and Immediate Suspension of Registration to John J. Lacue, D.M.D., Respondent, of 312 Sugar Street, Gallitzen, Pennsylvania, seeking to revoke DEA Certificate of Registration AL1655399, and to deny any pending applications for renewal of that registration. The grounds for the issuance of the Order to Show Cause and Immediate Suspension of Registration were that Respondent's continued registration is inconsistent with the public interest and would constitute an imminent danger to the public health and safety during the pendency of any administrative proceedings involving his registration.

The Order to Show Cause and Immediate Suspension of Registration were served personally on Respondent on January 12, 1987. In accordance with the Immediate Suspension, DEA Special Agents and Diversion Investigators took possession of Respondent's DEA Certificate of Registration, any unused order forms, and controlled substances found at his registered location.

On February 13, 1987, the Office of the Administrative Law Judge received from counsel for Respondent, a request for a hearing on the issues raised in the Order to Show Cause. On February 26, 1987, Administrative Law Judge Francis L. Young issued an order requiring counsel for Respondent and the Government to file prehearing statements on or before April 1, 1987. Government counsel filed her prehearing statement in a timely manner. No prehearing statement was received from Respondent's counsel. Based upon Respondent's failure to file a prehearing statement, the Administrative Law Judge issued a "Memorandum to Counsel" on April 20, 1987, inquiring as to what course the Government intended to take regarding the matter. Government counsel responded by requesting that the Administrative Law Judge terminate the proceedings, based upon a conversation with Respondent's counsel in which he informed her that he would not object to a termination of the proceedings. Consequently, on April 28, 1987, the Administrative Law Judge issued an order terminating the administrative proceedings in this matter. Based upon the foregoing information, the Administrator concludes that Respondent waived his opportunity for a hearing on the issues raised in the Order to Show Cause and Immediate Suspension of Registration, and enters this final order based upon the information contained in the DEA investigative file and the record of this proceeding as it now appears. See 21 CFR 1301.54(d) and 1301.54(e).

The Administrator finds that in February 1986, the Pennsylvania State Police received information from a reliable cooperating individual that Respondent was unlawfully handling large quantities of controlled substances. Based upon this information, the police initiated an undercover investigation of Respondent's controlled substances handling practices. On numerous occasions during the investigation, the cooperating individual went to Respondent's registered location and obtained large quantities of controlled substances, including Percodan and morphine, in exchange for money and electronic equipment. On two occasions, the cooperating individual purchased marijuana from Respondent. There was no legitimate medical or dental purpose for any of the controlled substances Respondent sold to the cooperating individual.

During the investigation, an undercover state police officer also engaged in negotiations for the sale of kilogram quantities of marijuana and cocaine with Respondent in his dental office. Respondent introduced the undercover officer to one of the large drug dealers in that area.

On December 15, 1986, the Pennsylvania State Police served Respondent with arrest and search warrants. On that date, Respondent was arrested and charged with fourteen counts of illegal distribution of controlled substances; seven counts of failure to keep dispensing records of controlled substances, including oxycodone and morphine; and with possession, possession with intent to deliver, and delivery of marijuana. During the search of Respondent's registered location, the police found 128.4 grams of marijuana; 54.7 grams of cocaine; 3,000 Percodan tablets; assorted

drug paraphernalia, including a cocaine processing kit; several guns, including automatic weapons; and several other types of weapons. In addition, the police seized the cooperating individual's dental records, Respondent's appointment book, and his controlled substance dispensing records.

Based upon the laboratory analysis of the substances seized during the search, Respondent was arrested again on December 23, 1986, and charged with one count each of possession of marijuana and cocaine, and one count each of possession with intent to deliver marijuana and cocaine. The laboratory analysis also revealed that the cocaine seized from Respondent was approximately 80% pure, street-quality cocaine, rather than pharmaceutical cocaine. The Respondent did not possess a valid DEA Schedule I research registration, pursuant to which he might have lawfully possessed marijuana.

Respondent has failed to appear in court on the criminal charges brought against him and is now classified as a fugitive from justice.

The Administrator also finds that in 1985, Respondent was the second largest practitioner purchaser of oxycodone in the State of Pennsylvania. He purchased nine times the average amount purchased by other medical practitioners during that year. In addition, Respondent was ranked fourth among all practitioners in the United States for purchase of morphine. In comparison, only three pharmacies in the State of Pennsylvania purchased larger quantities of morphine than Respondent during that same period. Respondent's controlled substances purchasing history is clearly excessive, especially since Respondent's practice is located in a town with a population of less than 2500 residents. It is inconceivable that Respondent could have legitimately handled the large quantities of oxycodone and morphine he ordered.

Based upon Respondent's numerous violations relating to controlled substances, the Administrator concludes that Respondent has demonstrated a total lack of regard for state and Federal controlled substance laws and regulations, and that his continued registration would be contrary to the public interest. Respondent used his DEA Certificate of Registration to purchase and profit from the illegal distribution of huge quantities of controlled substances. In addition, Respondent possessed and distributed large quantities of illicit controlled substances, including marijuana and cocaine. Such behavior creates a serious threat to the public health and safety and cannot be tolerated from DEA registrants. Therefore, the Administrator determines that Respondent cannot be allowed to maintain his registration privileges with the Drug Enforcement Administration.

Having concluded that Respondent's DEA Certificate of Registration must be revoked, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), orders that DEA Certificate of Registration AL1655399, previously issued to John J. Lacue, D.M.D., be, and it hereby is, revoked. The Administrator further orders that any pending applications for renewal of that registration be, and they hereby are, denied.

This order is effective March 3, 1988.

Dated: February 25, 1988.

John C. Lawn,

Administrator.

[FR Doc. 88-4581 Filed 3-2-88; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATE: Requests for copies must be received in writing on or before April 18, 1988. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESS: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending:

1. Department of the Air Force (N1-AFU-87-31). Records relating to forensic services provided by regional and nonregional forensic consultants of the Air Force Office of Special Investigations.

2. Department of the Air Force (N1-AFU-88-15). Records relating to the management of fuels and propellants.

3. Department of the Air Force (N1–AFU–88–17). Records relating to the allotment of quotas to courses.

4. Department of the Army, Joint Services Environmental Support Group (N1–AU–88–1). Case files relating to tour of duty information.

5. Department of the Army (N1–168–88–1). Facilitative records of National Guard Property and Disbursing Officers.

6. Department of the Army (N1–338–87–9). Facilitative records of Army Systems (schedule provides for permanent retention of overall policy documentation).

7. Department of the Army (N1–338–87–10). Facilitative records of Army Systems (schedule provides for permanent retention of overall policy documentation).

8. Department of the Army (N1–338–88–1. Routine documents pertaining to Army vehicle pools, transfer points and coal points.

9. Department of the Army (N1–338–88–2). Facilitative records of ROTC summer camps.

10. Department of the Army (N1–338–88–4). Records of Army Provost Courts pertaining to minor offenses.

11. Department of the Army (N1–338–88–5). Facilitative records of Landsberg Prison, 1957, relating to routine administrative matters (e.g., mess duty rosters, notice of official holidays, use of recreational facilities).

12. Department of the Army (N1–319–88–2). Duplicative copies of the *Army Information Digest* and facilitative records relating to its publication.

13. Department of Defense, Office of the Secretary of Defense (N1–330–88–2). Records relating to building security and protective services.

14. Defense Intelligence Agency (N1–373–88–2). Routine office management files, including reference copies of regulations.

15. Administrative Office of the U.S. Courts (N1–21–88–1). Notice of Tax Liens submitted to the U.S. District Courts.

16. Department of Agriculture, Forest Service (N1–95–87–11). Cooperative forestry review records.

17. Department of Commerce, Bureau of the Census (N1–29–87–3). Data files used for the survey of Fishing, Hunting and Wildlife Associated Recreation (public use data files, which protect the confidentiality of respondents, are identified for transfer to the National Archives.

18. Department of Commerce, Bureau of the Census (N1–29–87–4). Machine-readable records created as part of the Methods Development Survey.

19. Department of Commerce, International Trade Administration (N1–151–88–3). Tariff records relating to Great Britain and South Africa.

20. General Accounting Office, General Services and Controller (N1–217–88–1). Reduction in retention period for interagency liaison files.

21. Department of Housing and Urban Development (N1–207–88–1). Single Family Home Mortgage Insured Case Files.

22. Department of Housing and Urban Development (N1–207–88–2). Miscellaneous Lanham Act correspondence.

23. Interstate Commerce Commission, Office of the Secretary (NC1–134–84–3). Administrative records, case files, and publications.

24. Department of Justice, Civil Division, Torts Branch (N1–60–87–3). Pending and closed case filed maintained by Admiralty Field Offices. (Files on cases handled prior to 1870 and files on significant cases will be selected for permanent retention by the National Archives.)

25. Department of Justice, Federal Bureau of Investigation (N1–65–88–7). Headquarters and Washington Field Office documents lacking permanent value whose destruction has been requested by the subjects of the files.

26. Department of Justice, Civil Division (N1–131–88–2). Jewish restitution successor organization claims files, 1955–1959, generated by the Office of Alien Property.

27. Department of Justice, Foreign Claims Settlement Commission (N1–268–88–1). Claimant correspondence card file (1950–61) and register of claim payments (1948–50) of the Philippine War Damage Commission.

28. National Archives and Records Administration, Office of Records Administration, Records Appraisal and Disposition Division (N1–GRS–88–3). Changes and additions to General Records Schedule 1, item 23, Employee Performance File System Records.

29. Department of State, Bureau of Economic and Business Affairs, Office of Maritime Affairs (N1–43–88–2). Records relating to U.S. participation in Intergovernmental Maritime Consultative Organization (IMCO) meetings (documentation concerning this subject is available in permanent central files.)

30. Department of State, Bureau of Oceans and International Environmental and Scientific Affairs (N1–59–87–14). Records relating to Law of the Sea matters. Schedule provides for the permanent retention of policy documentation and the destruction of reference material and facilitative records.

31. Department of State, Office of Freely Associated State Affairs (N1–59–87–15). Comprehensive schedule providing for the destruction of facilitative records and the permanent retention of policy documentation.

32. Department of State, Historical Office (N1–59–88–6). Facilitative records relating to clearances for publication.

33. Department of State, Bureau of Security and Consular Affairs (N1–59–88–7). Facilitative and reference material relating to tourism matters.

34. Department of State, Undersecretary for Management, Family Liaison Office (N1–59–88–13). Facilitative records relating to family assistance programs.

35. Department of the Treasury, Office of the Secretary, Office of Tax Policy (N1–56–87–1). Records created in the course of developing various tax proposals and programs. The subject files in this schedule are designated for permanent retention and transfer to the National Archives.

36. Department of the Treasury, Internal Revenue Service (N1–58–88–1). Problem resolution office management system quarterly reports created in the national, regional and district offices.

Dated: February 23, 1988.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 88–4594 Filed 3–2–88; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Expansion Arts Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Multi-Disciplinary Section) to the National Council on the Arts will be held on March 22–March 24, 1988 from 9:00 a.m.–6:00 p.m., and on March 25, 1988 from 9:00 a.m.–5:30 p.m. in room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on March 22, 1988, from 9:00 a.m.–10:00 a.m. and on March 25, 1988, from 2:30 p.m.–5:30 p.m. for policy issues and guidelines discussion.

The remaining sessions of this meeting on March 22, 1988 from 10:00 a.m.–6:00 p.m., and on March 23–24, 1988 from 9:00 a.m.–6:00 p.m., and on March 25, 1988 from 9:00 a.m.–12:00 noon are for the purpose of Panel review, discussion, evaluation and

recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

February 26, 1988.

[FR Doc. 88–4570 Filed 3–2–88; 8:45 am]

BILLING CODE 7537–01–M

Humanities Panel; Change in Meeting Dates

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of change in meeting dates.

This notice announces changes in the dates of two meetings of the Humanities Panel Advisory Committee that will advise the Chairman of the National Endowment for the Humanities on the condition of the humanities in American life. The meeting originally scheduled for March 22, 1988 will be held on March 21, 1988 and the meeting originally scheduled for April 26, 1988 will be held on April 25, 1988. Both meetings will be held in Room M–09, the old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. Notice of these meetings was originally published in the **Federal Register** on January 25, 1988 at page 1967.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 88–4639 Filed 3–2–88; 8:45 am]

BILLING CODE 7536–01–M

Media Arts Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Film/Video Production Section) to the National Council on the Arts, will be held on March 22–23, 1988 from 9:00 a.m.—6:00 p.m., and on March 24, 1988 from 9:00 a.m.—5:30 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

February 26, 1988.

[FR Doc. 88–4571 Filed 3–2–88; 8:45 am]

BILLING CODE 7537–01–M

Theater Advisory Panel Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Professional Companies Section) to the National Council on the Arts will be held on March 21–March 25, 1988 from 9:00 a.m.–6:30 p.m., and on March 26, 1988 from 9:00 a.m.–5:00 p.m. in room MO–7 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on March 21, 1988, from 9:00 a.m.–10:00 a.m. and on March 26, 1988, from 1:00 p.m.–5:00 p.m. for policy issues and guidelines discussion.

The remaining sessions of this meeting on March 21, 1988 from 10:00 a.m.–6:30 p.m., and on March 22–25, 1988 from 9:00 a.m.–6:30 p.m., and on March 26, 1988 from 9:00 a.m.–12:00 noon are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(b) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TTY 202/682–5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Yvonne Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

February 26, 1988.

[FR Doc. 88–4572, Filed 3–2–88; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Meeting of Advisory Panel for Cultural Anthropology

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Cultural Anthropology.

Date: March 31–April 1, 1988, 8:30 a.m.–4:30 p.m.

Place: National Science Foundation, 1800 G Street, NW., Room 1243, Washington, DC.

Type of Meeting: Part Open—
Closed 3/31—8:30 a.m. to 4:30 p.m.
Closed 4/1—8:30 a.m. to 12:00 p.m.
Open 4/1—1:00 p.m. to 2:00 p.m.
Closed 2:00 p.m. to 4:30 p.m.

Contact Person: Dr. Stuart Plattner, Program Director, Cultural Anthropology Program, Room 320, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7804.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research in cultural anthropology.

Agenda:

Closed—To review and evaluate research proposals as part of the selection process for awards.

Open—To discuss trends and opportunities in research, and to help provide advice and recommendations concerning support for research in Cultural Anthropology.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

February 29, 1988.

[FR Doc. 88-4651 Filed 3-2-88; 8:45 am]

BILLING CODE 7555-01-M

Meeting of Earth Sciences Proposal Review Panel

The National Science Foundation announces the following meeting:

Name: Earth Sciences Proposal Review Panel.

Date: March 23, 24 and 25, 1988.

Times: 8:00 a.m. to 6:00 p.m. each day.

Place: The National Science Foundation, Room 642, 1800 G. Street, NW, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Ian D. MacGregor, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550; Telephone: (202) 357-7958.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

February 29, 1988.

[FR Doc. 88-4652 Filed 3-2-88; 8:45 am]

BILLING CODE 7555-01-M

Meeting of Advisory Panel for Ecosystem Studies

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Esosystem Studies.

Date and Time: March 24 & 25, 1988—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1243, National Science Foundation, 1800 G Street, NW., Washington, DC 20550

Type of Meeting: Closed.

Contact Person: Dr. Jerry M. Melillo, Program Director, Ecosystem Studies (202) 357-9596, Room 215, National Science Foundation, Washington, DC 20550.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research in ecosystem studies.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

February 29, 1988.

FR Doc 88-4653 Filed 3-2-88; 8:45 am]

BILLING CODE 7555-01-M

Meeting of Advisory Committee for the Mathematical Sciences

The National Foundation announces the following meeting:

Name: Advisory Committee for the Mathematical Sciences.

Date and Time:

March 24, 1988—9:00 a.m. to 5:00 p.m.
March 25, 1988—8:30 a.m. to 3:30 p.m.

Place: Room 540, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of Meeting:

March 24: Open—9:00 a.m. to 4:30 p.m.
March 24: Closed—4:30 p.m. to 5:00 p.m.
March 25: Open—8:30 a.m. to 3:30 p.m.

Contact Person: Dr. Judith S. Sunley, Division Director, Division of Mathematical Sciences, Room 339, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357-9669. Anyone planning to attend this meeting should notify Dr. Sunley no later than March 21, 1988.

Purpose of Committee: To provide advice and recommendations concerning support for research in the mathematical sciences.

Agenda:

Thursday, March 24, 1988—9:00 a.m. to 4:30 p.m. (Open)

Introductory remarks: FY 1988 and FY 1989 Budgets
—at NSF
—at other agencies
Discussions of planned initiatives
—Geometry
—Innovative Interactions
—Mathematical Sciences Research Groups
Report of Cosmology Subcommittee: Priorities for Standard Research Project, Support (SRPS)
Planning for Oversight Reviews (Fall, 1988)

Thursday, March 24, 1988—4:30 p.m. to 5:00 p.m. (Closed)

Review of initiative and oversight related proposals

Friday, March 25, 1988—8:30 a.m. to 3:30 p.m. (Open)

Trends in planning at NSF
Mathematics Education
Strategic planning for mathematical sciences
—Education and human resources
—Scientific opportunities
Updating the David Report
Other business

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposal. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c). Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

February 29, 1988.

[FR Doc. 88-4654 Filed 3-2-88; 8:45 am]

BILLING CODE 7555-01-M

Meeting of Advisory Committee for Physics

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics; Subcommittee for the Review of the NSF Atomic, Molecular and Plasma Physics Program.

Date and Time: March 23, 1988, 8:30 a.m. to 6:00 p.m.; March 24, 1988, 8:30 a.m. to 6:00 p.m.

Place: Room 1242 on 3/23/88 and Room 341 on 3/24/88, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Gerard M. Crawley, Director, Division of Physics, Room 341, National Science Foundation, Washington, DC 20550, (202) 357–7985.

Minutes: Will be part of the minutes of the full Committee meeting in May 1988.

Purpose of Meeting: To provide oversight concerning NSF support and planning for research in atomic, molecular and plasma physics.

Agenda: Oversight review of the NSF Atomic, Molecular and Plasma Physics Program, including examination of proposals, reviewer comments, and other privileged material.

Reason for Closing: The meeting will consist of a review of grant and declination jackets that contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. The meeting will also include a review of the peer review documentation pertaining to the applicants. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

February 29, 1988.

[FR Doc. 88–4655 Filed 3–2–88; 8:45 am]

BILLING CODE 7555-01-M

Meeting of Science Resources Studies Advisory Committee

The National Science Foundation announces the following meeting:

Name: Science Resources Studies Advisory Committee.

Date and Time: March 29, 1988, 9:00 am–4:00 pm.

Place: Room 643, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Robert O. Santos, SRS Executive Secretary, National Science Foundation, 1800 G Steet NW., Washington, DC 20550, Room L–602 (202) 634–4625.

Summary Minutes: Robert O. Santos, at above address.

Purpose of Committee: First meeting to discuss emerging S&T issues.

Agenda: Human Resources for Science and Technology and Financing U. S. Science and Technology.

M. Rebecca Winkler,

Committee Management Officer.

February 29, 1988.

[FR Doc. 88–4656 Filed 3–2–88; 8:45am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corp.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity For Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–28, issued to Vermont Yankee Nuclear Power Corporation (the licensee), for operation of the Vermont Yankee Nuclear Power Station, located in Windham County, Vermont.

The amendment, in accordance with the licensee's application for amendment dated December 9, 1987, revises the Vermont Yankee Technical Specifications with respect to the automatic depressurization system (ADS) (TS 3.2/4.2).

These changes would:

1. Include limiting conditions for operation requirements for new time delay relays added to the ADS.

2. Include testing and surveillance requirements for the new inhibit switches added to the ADS.

The licensee's submittal would also include a discussion of the above described ADS modifications in the "Bases" portion of the document which is not a formal part of the Technical Specifications.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By April 4, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As requied by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain in the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the

hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Richard H. Wessman, petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to John A. Ritsher, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110, attorney for the licensee.

Notimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 9, 1987, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Brooks Memorial Library, 2324 Main Street, Brattleboro, Vermont 05301.

Dated at Rockville, Maryland, this 25th day of February 1988.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Project Manager, Project Directorate I–3, Division of Reactor Projects I/II.

[FR Doc. 88–4604 Filed 3–2–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Co. (Surry Power Station, Units 1 and 2); Exemption

I

The Virginia Electric and Power Company (VEPCO, the licensee) is the holder of Operating License No. DPR–32, which authorizes operation of Surry Power Station Unit 1, and Operating License No. DPR–37, which authorizes operation of Surry Power Station Unit 2. The operating licenses provide, among other things, that the Surry Power Station is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The station comprises two pressurized water reactors at the licensee's site located in Surry, Virginia.

II

On November 19, 1980, the Commission published a revised Section 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains 15 subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. Three of the subsections, III.G, III.J, and III.L, are the subject of the licensee's exemption requests.

Subsection III.G.2 of Appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated nonsafety circuits of redundant trains by a fire barrier having a 3 hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier.

b. Separation of cables and equipment and associated nonsafety circuits of redundant trains by a horizontal distance or more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire supression system shall be installed in the fire area.

c. Enclosure of cable and equipment and associated nonsafety circuits of one redundant train in a fire barrier having a 1 hour rating. In addition, fire detectors and an automatic fire supression system shall be installed in the fire area.

Subsection III.G.3 of Appendix R requires that in areas where alternative or dedicated shutdown is provided, fire detection and a fixed fire suppression system shall also be installed in the area, room, or zone under consideration.

Subsection III.J of Appendix R requires that emergency lighting units with at least an 8 hour battery-powered supply be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto.

Subsection III.L.2 of Appendix R requires that certain performance goals for the shutdown functions shall be met.

By letter dated July 6, 1984, the licensee requested exemptions from Sections III.G, III.J, and III.L of Appendix R. By letters dated November 30, 1984, April 10, 1986, and October 16, 1987, the licensee transmitted revisions to its Appendix R evaluation.

III

The following list of exemption requests, therefore, reflects the latest status:

1. *Containment Incore Instrument Tunnels (Fire Areas 15 and 16).* An exemption was requested from the specific requirement of Section III.G.2.d to the extent that less than 20 feet of separation exists between redundant excore neutron flux detector cables in these areas.

2. *Separation of Instrumentation Inside the Containments (Fire Areas 15 and 16).* An exemption was requested from the specific requirement of Section III.G.2.d to the extent that intervening combustibles exist between redundant cables and equipment separated by 20 feet or by radiant energy shields.

3. *Emergency Lighting in the Containments, Main Control Room, and in Exterior Access Routes.* Exemptions were requested from the specific requirements of Section III.J to the extent that it requires 8 hour emergency lighting in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto.

4. *Refueling Water Storage Tank.* An exemption was requested from the specific requirement of Section III.L.2.d to the extent that process monitoring is not capable of providing direct readings of process variables necessary to perform and control required safe shutdown functions.

5. *Redundant Circuits in a Manhole Adjacent to Fuel Oil Pumphouse Room 2 (Fire Area 18B).*

An exemption was requested from the specific requirement of Section III.G.2.a to the extent that cables of redundant trains are not separated by a fire barrier having a 3 hour fire resistance rating.

In summary, exemptions were requested from the requirements of separating cables and associated nonsafety circuits of redundant trains by 3 hour rated fire barriers as discussed in Section III.G.2.a of Appendix R, and from providing horizontal separation of more than 20 feet with no intervening combustibles as required by Sections III.G.2.b and III.G.2.d. In addition, exemptions were requested from the emergency lighting requirements of Section III.J. Also, an exemption was requested from the requirement of providing direct reading of process variables as discussed in Section III.L.2.d.

The licensee has provided alternative and/or acceptable levels of fire protection for areas containing redundant safe shutdown systems not separated from each other. Fire protection in areas containing more than the negligible combustible load and containing safe shutdown equipment or cables consists of fire detectors, portable extinguishers, and hose stations.

As discussed in the staff's Safety Evaluation dated February 25, 1988, the staff concludes that the areas under consideration are expected to contain the minimum amount of combustible loading. Also, there are other features, such as separation between cables, installation of cables in rigid conduit and fire stop provide a reasonable assurance that a fire in these areas would be of low magnitude, promptly detected, and extinguished.

Based on the staff's review of the licensee's analyses, the staff concludes that the level of fire protection provided is equivalent to the technical requirements of Sections III.G, III.J, and III.L of Appendix R. Additional details concerning the exemptions are provided in the Safety Evaluation dated February 25, 1988.

By letter dated September 30, 1986, the licensee provided information relevant to the "special circumstances" finding required by revised 10 CFR 50.12(a). The licensee stated that the analysis accompanying each exemption request demonstrates that an acceptable level of fire protection already exists at Surry Power Station and the licensee has achieved the underlying purpose of the requirements of the applicable sections of Appendix R. In addition, the licensee stated that if the exemptions are denied, it would be necessary to design and install modifications to provide additional fire detection and fire suppression systems, fire barriers, emergency lighting, and instrumentation. Overall, these changes would require a significant expenditure of engineering, construction, and operations resources, as well as associated capital costs, which are not necessary to achieve underlying purpose of the rule, and the modifications would not increase the overall level of protection for safe shutdown equipment.

The staff has reviewed the fire protection analysis for each of the exemptions requested by the licensee and concludes that the existing and proposed fire protection features at Surry Power Station provide a level of safety equivalent to the technical requirements of applicable sections of Appendix R. Therefore, the staff concludes that "special circumstances" exist for the licensee's requested exemptions in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR Part 50. See 10 CFR 50.12(a)(2)(ii). The detailed evaluation of each of these exemptions is provided in the staff's Safety Evaluation dated February 25, 1988.

IV

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that (1) the exemptions as described in Section III are authorized by law and will not present an undue risk to the public health and safety and are consistent with common defense and security, and (2) special circumstances are present for the exemptions in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR Part 50. Therefore, the Commission hereby grants the following exemptions from the requirements of Sections III.G, III.J, and III.L of Appendix R to 10 CFR Part 50:

1. Containment Incore Instrument Tunnels (Fire Areas 15 and 16) to the extent that the redundant excore neutron flux detector cables in these areas are not separated by a horizontal distance of more than 20 feet pursuant to the requirements of Section III.G.2.d.

2. Separation of Instrumentation Inside the Containments (Fire Areas 15 and 16) to the extent that safe shutdown cables and equipment separated by 20 feet or by radiant energy shields are not free of intervening combustibles pursuant to section III.G.2.d.

3. Emergency Lighting in the Containments, Main Control Room, and Exterior Access Routes to the extent that 8 hour battery-powered emergency lighting is not provided pursuant to Section III.J.

4. Refueling Water Storage Tank to the extent that process monitoring is not capable of providing direct readings of processed variables necessary to perform and control required safe shutdown functions pursuant to Section III.L.2.d.

5. Redundant Circuits in a Manhole Adjacent to Fuel Oil Pumphouse Room 2 (Fire Area 18B) to the extent that cables of redundant trains are not separated by a fire barrier having a 3 hour fire resistance rating pursuant to Section III.G.2.a.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of these exemptions will have no significant impact on the environment (February 25, 1988, 53 FR 5659).

A copy of the Safety Evaluation dated February 25, 1988, related to this action is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Swen Library, College of William and Mary, Williamsburg, Virginia 23185. A copy may be obtained upon written request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II.

These Exemptions are effective upon issuance.

Dated: at Rockville, Maryland, this 25th day of February, 1988.

For The Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-4605 Filed 3-2-88; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Aeronautical Policy Review Committee; Renewal

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that the Renewal of the Aeronautical Policy Review Committee is necessary, appropriate, and in the public interest in connection with the performance of duties imposed upon the Director, Office of Science and Technology Policy, by the Presidential Science and Technology Advisory Organization Act of 1976 and other applicable law. This determination follows consultation with the General Services Administration, pursuant to section 9(a)(2) of the Federal Advisory Committee Act and the GSA Final Rule on Federal Advisory Committee Management (52 FR 45926, December 2, 1987).

1. *Name of Group:* Aeronautical Policy Review Committee.

2. *Purpose:* The purpose of the Aeronautical Policy Review Committee is to advise the Director, Office of Science and Technology Policy (OSTP), on the implementation of national aeronautical research and technology policy. The Committee will address specific implementation strategies for achieving the National Aeronautical R&D Goals, proposed by the Committee in 1985 and 1987, and shall concern itself with other specific issues assigned by the Director, OSTP, as well as keep him informed of changing perspectives in the aeronautical community.

3. *Effective Date of Establishment and Duration:* The renewal of the Aeronautical Policy Review Committee is effective upon filing of the charter with the Director, OSTP, and with the standing committees of Congress having legislative jurisdiction over the Office of Science and Technology Policy. The Aeronautical Policy Review Committee terminate on January 21, 1990, unless sooner extended.

4. *Membership:* Members of the Aeronautical Policy Review Committee will be appointed by the Director, Office of Science and Technology Policy. That appointment shall be subject to review every 365 days unless earlier terminated. The Council shall consist of no more than 17 members. Additional technical experts will be utilized as needed to constitute panels and study groups.

5. *Advisory Group Operation:* The Aeronautical Policy Review Committee will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92–463), GSA Final Rule on Federal Advisory Committee Management (52 FR 45926), and other directives and instructions issued in implementation of the Act.

Jonathan F. Thompson,

Executive Director.

Office of Science and Technology Policy Charter, Aeronautical Policy Review Committee

1. *Committee's Official Designation:* Aeronautical Policy Review Committee (APRC)

2. *Objectives and scope of Activities and Duties:*

• The purpose of the Aeronautical Policy Review Committee is to review for the Director, Office of Science and Technology Policy (OSTP), the implementation of national aeronautical research and technology policy. The Committee will address specific implementation strategies for achieving the National Aeronautical R&D Goals proposed by the Committee in 1985 and 1987 in concern with the goals and technical objectives of the National Aeronautics and Space Administration, the Department of Defense, the Federal Aviation Administration, and the aeronautical industry.

• The Committee shall advise on specific aeronautical issues assigned by the Director, OSTP, and keep him informed of changing perspectives in the aeronautics community.

• The Committee shall report annually the results of this review to the Director, OSTP.

3. *Duration:* The Committee will terminate on January 21, 1990, unless sooner extended.

4. *Official to Whom the Council Reports:* The Aeronautical Policy Review Committee will report to the Director, OSTP.

5. *Agency Responsible for Providing Necessary Support for this Council:* Office of Science and Technology Policy.

6. *Description of Duties:* The duties of the Committee are solely advisory and are stated in paragraph 2 above.

7. *Costs:* The estimated annual operating cost of the Committee is $0.

8. *Estimated Number and Frequency of Meetings:* The Aeronautical Policy Review Committee shall meet semi-annually and at such other times as may be called by the Chairman.

9. *Subgroups:* Subgroups may be formed to conduct studies on specific issues assigned by the Director, OSTP.

10. *Members:* Committee members shall be appointed by the Director, OSTP. That appointment shall be subject to review every 365 days unless terminated earlier. The Committee shall consist of no more than 17 members. *The Director, OSTP, shall appoint a Chairman and Vice Chairman from the members of the Council.*

The Committee shall utilize additional technical experts as needed to constitute its panels and study groups. These technical experts shall be appointed by the Director, OSTP, and shall be for the duration of the panel upon which the Associate Member serves or 365 days, whichever is sooner, unless terminated earlier by the Director.

This Charter for the Advisory Committee named above is hereby approved on:

Date: January 7, 1988.

Jonathan F. Thompson,

Committee Management Officer.

Date filed: February 23, 1988.

[FR Doc. 88–4674 Filed 3–2–88; 8:45 am]

BILLING CODE 3170–01–M

POSTAL SERVICE

International Postal Rates and Fees; Proposed Changes

AGENCY: Postal Service.

ACTION: Proposed International Postal Rates and Fees.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service proposes changes in international postal rates and fees as indicated below. The Postal Service proposes that the increases become effective at the same time new domestic rates and fees become effective.

DATE: Comments must be received on or before April 1, 1988.

ADDRESS: Written comments should be directed to the Director, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, DC 20260–5350. Copies of all written comments will be available for public inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday in Room 8620.

FOR FURTHER INFORMATION CONTACT: John F. Alepa, (202) 268–2664.

SUPPLEMENTARY INFORMATION: The increases in international rates and fees, which are set forth below, are needed by the Postal Service to generate additional revenues to help cover cost increases incurred by the Postal Service in providing international mail services.

The Postal Service proposes that the changes in international rates and fees become effective at the same time that changes in domestic rates and fees become effective. The Postal Service believes that coordinating changes in domestic and international rates will reduce administrative difficulties in implementing the new rates and will also make it easier for mailers to adjust to the new rates and fees.

A few of the proposed new charges are marked with an asterisk. In these instances, the Postal Service is proposing that international fees be the same as the corresponding domestic fees. The domestic fees are set under a procedure whereby the independent Postal Rate Commission, following hearings on the record, recommends new rates to the Governors of the Postal Service who are then authorized to establish new fees. *See* 39 U.S.C. 3621, *et seq.* Recommended changes in domestic rates and fees are expected in the near future. Once the domestic fees have been adopted, we will publish any necessary changes to the corresponding numbers shown in the document at the same time that changes in domestic fees are published in the **Federal Register.**

Although 39 U.S.C. 407 neither requires the Postal Service to give advance notice of changes in international rates and fees nor requires the Postal Service to provide an opportunity for the submission of comments on proposed changes, and the Postal Service is exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b)(c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites interested persons to submit comments on the proposed changes in international rates and fees.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

I. International Postal Rates and Fees

A. New Rates.

1. Letters and letter packages.

Weight steps not over		Canada [1]	Mexico
Pounds	Ounces		
0	1	$0.30	$0.25
0	2	0.52	0.45
0	3	0.74	0.65
0	4	0.96	0.85
0	5	1.18	1.05
0	6	1.40	1.25
0	7	1.62	1.45
0	8	1.84	1.65
0	9	2.06	1.85
0	10	2.28	2.05
0	11	2.50	2.25
0	12	2.72	2.45
1	0	3.08	3.25
1	8	3.70	4.05
2	0	4.32	4.85
2	8	4.94	5.65
3	0	5.56	6.45
3	8	6.18	7.25
4	0	6.80	8.05

[1] Registered letters to Canada may weigh up to 66 pounds. For these items, the rate for each additional pound or fraction over 4 pounds is $1.24

I. International Postal Rates and Fees

A. New Rates.

1. Letters and letter packages (Surface).

Weight steps not over		All countries (other than Canada/ Mexico)
Pounds	Ounces	
0	1	$0.40
0	2	0.63
0	3	0.86
0	4	1.09
0	5	1.32
0	6	1.55
0	7	1.78
0	8	2.01
1	0	3.60
1	8	5.20
2	0	6.60
2	8	7.60
3	0	8.60
3	8	9.60
4	0	10.60

3. Letters and Letter Packages (Air).

a. Canada and Mexico; refer to rates listed under A.1. Mail paid at this rate receives First-Class service in the United States and air service in Canada and Mexico.

b. All other Countries: 45 cents per half ounce up to and including 2 ounces; 42 cents each additional half ounce up to and including 32 ounces; 42 cents per additional ounce over 32 ounces.

4. Post and Postal Cards.

a. Surface.

(1) Canada; 21 cents each.

(2) Mexico: 16 cents each.

(3) All other countries: 28 cents each.

b. Air.

(1) Canada: 21 cents each.

(2) Mexico: 16 cents each.

(3) All countries (except Canada and Mexico): 36 cents each.

5. Aerogrammes: 39 cents each.

6. Other Articles (AO).

a. Surface.

(1) Regular Printed Matter.

Weight steps not over	Canada	Mexico	All other countries
1 oz	$0.30	$0.25	$0.40
2 oz	0.52	0.45	0.60
3 oz	0.74	0.65	0.80
4 oz	0.96	0.85	1.00
6 oz	1.21	1.05	1.28
8 oz	1.46	1.25	1.56
10 oz	1.71	1.45	1.84
12 oz	1.96	1.65	2.12
14 oz	2.21	1.85	2.40
16 oz	2.39	2.05	2.68
18 oz	2.57	2.25	2.92
20 oz	2.75	2.45	3.16
22 oz	2.93	2.65	3.40
24 oz	3.11	2.85	3.64
26 oz	3.29	3.05	3.88
28 oz	3.47	3.25	4.12
30 oz	3.65	3.45	4.36
32 oz	3.83	3.65	4.60
3 lbs	5.03	5.15	6.10
4 lbs	6.23	6.65	7.60
Each additional 1 lb	1.20	1.50	1.50
Direct sacks to one addressee (M-Bag): Minimum 15 lbs. Maximum 66 lbs. Per Pound or Fraction	.96	1.20	1.20

(2) Publishers Periodicals.

Weight steps not over	All countries
1 oz	$0.20
2 oz	0.30
3 oz	0.40
4 oz	0.50
6 oz	0.64
8 oz	0.78
10 oz	0.92
12 oz	1.06
14 oz	1.20
16 oz	1.34
18 oz	1.46
20 oz	1.58
22 oz	1.70
24 oz	1.82
26 oz	1.94
28 oz	2.06
30 oz	2.18
32 oz	2.30
3 lbs	3.20
4 lbs	4.10
Each additional 1 lb oz	.90
Direct sacks to one addressee (M-Bag): Minimum 15 lbs. Maximum 66 lbs. Per pound or fraction oz	.72

(3) Books and Sheet Music.

Weight steps not over	All countries
1 lb	$1.34
2 lb	2.30
3 lb	3.20
4 lb	4.10
5 lb	5.00
6 lb	5.90
7 lb	6.80
8 lb	7.70
9 lb	8.60
10 lb	9.50
11 lb	10.40
Each additional 1 lb	.90
Direct sacks to one addressee (M-Bag): Minimum 15 labs. Maximum 66 lbs. Per pound or fraction lb	.72

(4) Small Packets.

Weight steps not over	Canada	Mexico	All countries
1 oz	$0.30	$0.25	$0.40
2 oz	0.52	0.45	0.60
3 oz	0.74	0.65	0.80
4 oz	0.96	0.85	1.00
6 oz	1.21	1.05	1.28
8 oz	1.46	1.25	1.56
10 oz	1.71	1.45	1.84
12 oz	1.96	1.65	2.12
14 oz	2.21	1.85	2.40
16 oz	2.39	2.05	2.68
18 oz	2.57	2.25	2.92
20 oz	2.75	2.45	3.16
22 oz	2.93	2.65	3.40
24 oz	3.11	2.85	3.64
26 oz	3.29	3.05	3.88
28 oz	3.47	3.25	4.12
30 oz	3.65	3.45	4.36
32 oz	3.83	3.65	4.60
3 pounds			6.10
4 pounds			7.60

b. Air (Encompasses all Printed Matter, Matter for the Blind and Small Packets).

Weight steps not over	Canada and Mexico	Columbia, Venezuela, Central America, Caribbean Islands, Bahamas, Bermuda, & St. Pierre & Miquelon (Also, from American Samoa to Western Samoa, & from Guam to the Philippines	South America (except Colombia & Venezuela), Europe (except Estonia, Latvia, Lithuania, & U.S.S.R.), & North Africa	Estonia, Latvia, Lithuania, U.S.S.R., Asia, Pacific Ocean Islands, Africa (other than North Africa) the Indian Ocean Island & the Middle East
1 oz	See Section c	$0.69	$0.83	$0.90
2 oz		1.06	1.32	1.54
3 oz		1.43	1.81	2.18
4 oz		1.80	2.30	2.82
6 oz		2.17	2.94	3.73
8 oz		2.54	3.58	4.64
10 oz		2.91	4.22	5.55
12 oz		3.28	4.86	6.46
14 oz		3.65	5.50	7.37
16 oz		4.02	6.14	8.28
18 oz		4.39	6.78	9.19
20 oz		4.76	7.42	10.10
22 oz		5.13	8.06	11.01
24 oz		5.50	8.70	11.92
26 oz		5.87	9.34	12.83
28 oz		6.24	9.98	13.74
30 oz		6.61	10.62	14.65
32 oz		6.98	11.26	15.56
2.5 pounds		8.38	13.76	19.11
3.0 pounds		9.78	16.26	22.66
3.5 pounds		11.18	18.76	26.21
4.0 pounds		12.58	21.26	29.76
Each additional ½ pound		1.40	2.50	3.55
Direct sack to one addressee (M-Bag): Minimum 15 lbs. Maximum 66 lbs. Per Pound or Fraction		2.24	4.00	5.68

c. Air AO—Canada/Mexico (Encompasses all Printed Matter, Matter for the Blind and Small Packets).

Weight steps not over	Canada	Mexico
1 oz	$0.30	$0.25
2 oz	0.52	0.45
3 oz	0.74	0.65
4 oz	0.96	0.85
5 oz	1.18	1.05
6 oz	1.40	1.25
7 oz	1.62	1.45
8 oz	1.84	1.65
9 oz	2.06	1.85
10 oz	2.28	2.05
11 oz	2.50	2.25
12 oz	2.72	2.45
16 oz	3.08	3.25
24 oz	3.70	4.05
32 oz	4.32	4.85
2.5 pounds	4.94	5.65
3.0 pounds	5.56	6.45
3.5 pounds	6.18	7.25
4.0 pounds	6.80	8.05
Each additional ½ pound over 4 pounds	.62	.80
Direct sack to one addressee (M-Bag): Minimum 15 pounds, Maximum 66 pounds or fraction	.99	1.28

7. Parcel Post.

a. Surface.

(1) Canada: $3.95 for over 1 pound and up to 2 pounds, and $1.20 for each additional pound or fraction.

(2) Mexico, Central America, the Caribbean Islands, Bahamas, Bermuda, St. Pierre and Miquelon: $4.40 for the first 2 pounds and $1.40 for each additional pound or fraction.

(3) All other countries: $4.60 for the first 2 pounds and $1.50 for each additional pound or fraction.

b. Air.

Air Parcel Post Rates

(1) Canada.

Weight steps not over (pounds)	Rates
1–2	4.32
3	5.56
4	6.80
5	8.04
6	9.28
7	10.52
8	11.76
9	13.00
10	14.24
11	15.48
12	16.72
13	17.96
14	19.20
15	20.44
16	21.68
17	22.92
18	24.16
19	25.40
20	26.64
21	27.88
22	29.12
23	30.36
24	31.60
25	32.84
26	34.08
27	35.32
28	36.56
29	37.80
30	39.04
31	40.28
32	41.52
33	42.76
34	44.00
35	45.24
36	46.48
37	47.72
38	48.96
39	50.20
40	51.44
41	52.68
42	53.92
43	55.16
44	56.40
45	57.64
46	58.88
47	60.12
48	61.36
49	62.60
50	63.84
51	65.08
52	66.32
53	67.56
54	68.80
55	70.04
56	71.28
57	72.52
58	73.76
59	75.00
60	76.24
61	77.48
62	78.72
63	79.96

Weight steps not over (pounds)	Rates
64	81.20
65	82.44

Weight steps not over (pounds)	Rates
66	83.68

b. Air.

2. All other countries.

Weight steps	Country groups				
	A	B	C	D	E
First 1 Pound	$5.50	$7.15	$8.70	$10.30	$11.95
Each additional pound or fraction up to 5 pounds	2.80	4.00	4.80	5.80	6.80
Each additional pound or fraction over 5 pounds	2.00	3.00	4.00	5.00	6.00

ALL PARCEL POST RATE GROUPS: See list.

AIR PARCEL POST RATE GROUPS

Country	Rate group	Maximum weight limits for air parcel post
Afghanistan	D	44
Albania	C	44
Algeria	D	44
Andorra	B	44
Angola	E	22
Anguilla	A	22
Antigua and Barbuda	A	22
Argentina	D	44
Aruba	A	44
Ascension	(1)	
Australia	D	44
Austria	B	44
Azores	C	22
Bahamas	A	22
Bahrain	D	22
Bangladesh	E	22
Barbados	B	22
Belgium	D	44
Belize	A	44
Benin	C	44
Bermuda	A	44
Bhutan	E	22
Bolivia	B	44
Botswana	E	22
Brazil	E	44
British Virgin Islands	A	44
Brunei	D	22
Bulgaria	D	44
Burkina Faso	D	44
Burma	D	22
Burundi	E	44
Cameroon	D	44
Canada	(2)	66
Cape Verde	D	22
Cayman Islands	A	44
Central African Republic	E	44
Chad	D	44
Chile	D	22
China (Peoples Republic of)	D	44
Colombia	B	44
Camoros	E	44
Congo	D	44
Corsica	E	44
Costa Rica	A	44
Cote d'Ivoire (Ivory Coast)	D	44
Cuba	(3)	
Cyprus	C	44
Czechoslovakia	C	33
Denmark	C	44
Djibouti	D	44
Dominica	A	22
Dominican Republic	A	44
East Timor	(3)	
Ecuador	C	44
Egypt	D	44

AIR PARCEL POST RATE GROUPS—Continued

Country	Rate group	Maximum weight limits for air parcel post
El Salvador	B	44
Equatorial Guinea	D	44
Estonia	E	22
Ethiopia	D	44
Falkland Islands	D	44
Faroe Islands	C	44
Fiji	B	44
Finland	D	44
France (including Monaco)	E	44
French Guiana	C	44
French Polynesia	D	44
Gabon	D	44
Gambia	B	22
German Democratic Republic (East Germany).	C	44
Germany, Federal Republic of (West Germany).	C	44
Ghana	D	22
Gibralter	C	44
Great Britain and Northern Ireland.	C	50
Greece	C	44
Greenland	D	44
Grenada	A	22
Guadeloupe	A	44
Guatemala	A	44
Guinea	B	44
Guinea-Bissau	B	22
Guyana	B	44
Haiti	A	44
Honduras	B	44
Hong Kong	C	44
Hungary	C	44
Iceland	C	44
India	D	44
Indonesia	E	22
Iran	D	44
Iraq	D	44
Ireland (Eire)	C	22
Israel	C	33
Italy (including San Marino)	C	44
Jamaica	A	22
Japan	E	22
Jordan	C	44
Kampuchea	(3)	
Kenya	D	44
Kirabati	B	44
Korea, Democratic People's Republic.	(3)	
Korea, Republic of	C	44
Kuwait	C	44
Lao	E	44
Latvia	E	22
Lebanon	C	11
Lesotho	E	22
Liberia	C	22
Libya	D	44

AIR PARCEL POST RATE GROUPS—Continued

Country	Rate group	Maximum weight limits for air parcel post
Lithuania	E	22
Luxembourg	B	44
Macao	C	22
Madagascar	E	44
Madeira Islands	B	22
Malawi	D	22
Malaysia	D	22
Maldives	D	22
Mali	C	44
Malta	C	22
Martinique	A	44
Mauritania	D	44
Mauritius	E	22
Mexico	A	44
Mongolia	(3)	
Montserrat	A	44
Morocco	C	44
Mozambique	E	22
Nauru	C	44
Nepal	D	44
Netherlands	C	44
Netherland Antilles	A	44
New Caledonia	D	44
New Zealand	D	22
Nicaragua	B	44
Niger	D	44
Nigeria	C	22
Norway	D	44
Oman	D	22
Pakistan	D	22
Panama	A	44
Papua New Guinea	D	44
Paraguay	D	44
Peru	B	44
Philippines	D	44
Pitcairn Islands	B	22
Poland	B	44
Portugal	C	22
Qatar	C	44
Reunion	E	44
Romania	C	44
Rwanda	D	44
Saint Christopher and Nevis	A	44
Saint Helena	C	44
Saint Lucia	A	44
Saint Pierre and Miquelon	A	44
Saint Vincent and the Grenadines.	A	22
Sao Tome and Prinicipe	D	44
Saudia Arabia	D	22
Senegal	D	44
Seychelles	D	22
Sierre Leone	D	44
Singapore	D	22
Solomon Islands	C	44
Somalia	D	44

AIR PARCEL POST RATE GROUPS—Continued

Country	Rate group	Maximum weight limits for air parcel post
South Africa (including South West Africa and Namibia).	D	22
Spain	C	44
Sri Lanka	D	44
Sudan	D	44
Suriname	B	44
Swaziland	D	44
Sweden	D	44
Switzerland (including Leichtenstein).	B	44
Syria	C	44
Taiwan	C	44
Tanzania	E	22
Thailand	D	44
Togo	D	44
Tonga	B	22
Trinidad and Tobago	B	22
Tristan da Cunha	E	22
Tunisia	C	44
Turkey	C	44
Turks and Caicos Islands	A	22
Tuvalu	B	44
Uganda	D	22
Union of Soviet Socialist Republics.	E	22
United Arab Emirates	D	44
Uruguay	B	44
Vanuatu	B	44
Vatican City State	C	44
Venezuela	B	44
Vietnam	[3]	
Wallis and Futuna Islands	D	44
Western Samoa	B	22
Yemen Arab Republic	D	22
Yemen, Peoples Democratic Republic of.	E	44
Yugoslavia	C	22
Zaire	E	44
Zambia	E	44
Zimbabwe	E	44

[1] No air service.
[2] Separate rate group.
[3] No parcel post service.

8. Express Mail International Service for countries by rate group, see list.

Pounds (up to and including)	Rates
a. Custom Designed Service[1][2][3].	
(1) Group 1:	
1 to 2	$31.20
3	33.40
4	35.60
5	37.80
6	40.00
7	42.20
8	44.40
9	46.40
10	48.80
11	51.00
12	53.20
13	55.40
14	57.60
15	59.80
16	62.00
17	64.20
18	66.40
19	68.60
20	70.80
21	73.00
22	75.20
23	77.40
24	79.60
25	81.80
26	84.00
27	86.20
28	88.40
29	90.60
30	92.80
31	95.00
32	97.20
33	99.40
34	101.60
35	103.80
36	106.00
37	108.20
38	110.40
39	112.60
40	114.80
41	117.00
42	119.20
43	121.40
44	123.60
45	125.80
46	128.00
47	130.20
48	132.40
49	134.60
50	136.80
51	139.00
52	141.20
53	143.40
54	145.60
55	147.80
56	150.00
57	152.20
58	154.40
59	156.60
60	158.80
61	161.00
62	163.20
63	165.40
64	167.60
65	169.80
66	172.00
(2) Group 2:	
1 to 2	33.50
3	38.00
4	42.50
5	47.00
6	51.50
7	56.00
8	60.50
9	65.00
10	69.50
11	74.00
12	78.50
13	83.00
14	87.50
15	92.00
16	96.50
17	101.00
18	105.50
19	110.00
20	114.50
21	119.00
22	123.50
23	128.00
24	132.50
25	137.00
26	141.50
27	146.00
28	150.50
29	155.00
30	159.50
31	164.00
32	168.50
33	173.00
34	177.50
35	182.00
36	186.50
37	191.00
38	195.50
39	200.00
40	204.50
41	209.00
42	213.50
43	218.00
44	222.50
(3) Group 3:	
1 to 2	34.70
3	40.40
4	46.10
5	51.80
6	57.50
7	63.20
8	68.90
9	64.60
10	80.30
11	86.00
12	91.70
13	97.40
14	103.10
15	108.80
16	114.50
17	120.20
18	125.90
19	131.60
20	137.30
21	143.00
22	148.70
23	154.40
24	160.10
25	165.80
26	171.50
27	177.20
28	182.90
29	188.60
30	194.30
31	200.00
32	205.70
33	211.40
34	217.10
35	222.80
36	228.50
37	234.20
38	239.90
39	245.60
40	251.30
41	257.00
42	262.70
43	268.40
44	274.10
(4) Group 4:	
1 to 2	36.00
3	43.00
4	50.00
5	57.00
6	64.00
7	71.00
8	78.00
9	85.00
10	92.00
11	99.00
12	106.00
13	113.00
14	120.00
15	127.00
16	134.00
17	141.00
18	148.00
19	155.00
20	162.00
21	169.00
22	176.00
23	183.00
24	190.00
25	197.00
26	204.00
27	211.00
28	218.00
29	225.00
30	232.00
31	239.00
32	246.00
33	253.00

Pounds (up to and including)	Rates
34	260.00
35	267.00
36	274.00
37	281.00
38	288.00
39	295.00
40	302.00
41	309.00
42	316.00
43	323.00
44	330.00
45	337.00
46	344.00
47	351.00
48	358.00
49	365.00
50	372.00
b. On Demand Service. [13]	
(1) Group 1:	
1 to 2	23.20
3	25.40
4	27.60
5	29.80
6	32.00
7	34.20
8	36.40
9	38.60
10	40.80
11	43.00
12	45.20
13	47.40
14	49.60
15	51.80
16	54.00
17	56.20
18	58.40
19	60.60
20	62.80
21	65.00
22	67.20
23	69.40
24	71.60
25	73.80
26	76.00
27	78.20
28	80.40
29	82.60
30	84.80
31	87.00
32	89.20
33	91.40
34	93.60
35	95.80
36	98.00
37	100.20
38	102.40
39	104.60
40	106.80
41	109.00
42	111.20
43	113.40
44	115.60
45	117.80
46	120.00
47	122.20
48	124.40
49	126.60
50	128.80
51	131.00
52	133.20
53	135.40
54	137.60
55	139.80
56	142.00
57	144.20
58	146.40
59	148.60
60	150.80
61	153.00
62	155.20
63	157.40
64	159.60
65	161.80
66	164.00
(2) Group 2:	
1 to 2	25.50
3	30.00
4	34.50
5	39.00
6	43.50
7	48.00
8	52.50
9	57.00
10	61.50
11	66.00
12	70.50
13	75.00
14	79.50
15	84.00
16	88.50
17	93.00
18	97.50
19	102.00
20	106.50
21	111.00
22	115.50
23	120.00
24	124.50
25	129.00
26	133.50
27	138.00
28	142.50
29	147.00
30	151.50
31	156.00
32	160.50
33	165.00
34	169.50
35	174.00
36	178.50
37	183.00
38	187.50
39	192.00
40	196.50
41	201.00
42	205.50
43	210.00
44	214.50
(3) Group 3:	
1 to 2	26.70
3	32.40
4	38.10
5	43.80
6	49.50
7	55.20
8	60.90
9	66.60
10	72.30
11	78.00
12	83.70
13	89.40
14	95.10
15	100.80
16	106.50
17	112.20
18	117.90
19	123.60
20	129.30
21	135.00
22	140.70
23	146.40
24	152.10
25	157.80
26	163.50
27	169.20
28	174.90
29	180.60
30	186.30
31	192.00
32	197.70
33	203.40
34	209.10
35	214.80
36	220.50
37	226.20
38	231.90
39	237.60
40	243.30
41	249.00
42	254.70
43	260.40
44	266.10
(4) Group 4:	
1 to 2	28.00
3	35.00
4	42.00
5	49.00
6	56.00
7	63.00
8	70.00
9	77.00
10	84.00
11	91.00
12	98.00
13	105.00
14	112.00
15	119.00
16	126.00
17	133.00
18	140.00
19	147.00
20	154.00
21	161.00
22	168.00
23	175.00
24	182.00
25	189.00
26	196.00
27	203.00
28	210.00
29	217.00
30	224.00
31	231.00
32	238.00
33	245.00
34	252.00
35	259.00
36	266.00
37	273.00
38	280.00
39	287.00
40	294.00
41	301.00
42	308.00
43	315.00
44	322.00
45	329.00
46	336.00
47	343.00
48	350.00
49	357.00
50	364.00

[1] Rates for pieces 1 pound and under published in November 12, 1987, **Federal Register** Notice.

[2] Rates in these tables are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[3] Pickup is available under a Service Agreement for an added charge of $4.00* for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

INTERNATIONAL EXPRESS MAIL

[Rate groups and maximum weight limits]

Country	Rate group	Maximum weight (lbs.)
Argentina	3	44
Australia	4	44

INTERNATIONAL EXPRESS MAIL—Continued

[Rate groups and maximum weight limits]

Country	Rate group	Maximum weight (lbs.)
Austria	2	44
Bahamas	2	44
Bahrain	3	44
Bangladesh	4	44
Barbados	2	44
Belgium	3	44
Bermuda	1	44
Brazil	4	50
Brukina Faso	3	44
Canada	1	66
Cayman Islands	2	44
Chad	3	44
Chile	3	33
China, Peoples Republic of	4	33
Colombia	2	44
Congo	3	44
Cote d'Ivoire (Ivory Coast)	3	44
Cyprus	3	44
Denmark (incl. Faroe Islands)	3	44
Djibouti	4	44
Egypt	3	44
Finland	3	44
France (incl. Corsica & Monaco)	3	44
Germany, Federal Republic of	2	44
Great Britain/Northern Ireland	2	44
Greece	3	44
Guinea	3	44
Guyana	2	44
Hong Kong	3	44
Hungary	2	44
Iceland	3	44
India	4	44
Indonesia	4	22
Ireland	2	44
Israel	3	33
Italy	3	44
Japan	4	44
Jordan	3	44
Korea, Republic of	3	44
Kuwait	3	44
Luxembourg	2	44
Macao	3	44
Malaysia	4	33
Mali	3	44
Mexico	1	44
Netherlands	3	44
Netherlands Antilles	2	44
New Zealand	4	44
Niger	3	44
Nigeria	3	44
Norway	3	44
Oman	3	44
Pakistan	3	22
Panama	2	44
Portugal (incl. Madeira Islands & Azores)	2	44
Qatar	3	44
Rwanda	4	44
Saudi Arabia	3	22
Senegal	3	44
Singapore	4	44
South Africa	4	44
Spain	2	44
Sweden	3	44
Switzerland (incl. Liechtenstein)	3	33
Taiwan	3	33
Tanzania	4	22
Thailand	4	44
Tunisia	3	44
Turkey	3	44
United Arab Emirates	3	44
Uruguay	3	44
Venezuela	2	44

B. New Special Mail Services Fees

1. Nonstandard Surcharge

a. Letters (weighing one ounce or less): 10* cents

b. Regular Printed Matter (weighing one ounce or less): 10* cents

2. Customs Clearance and Delivery Fee: $3.25

3. Inquiry Fees: $5.00*

4. Return receipt requested at time of mailing: 90* cents

5. Registered Mail

Limit of Indemnity	Fee
1. Canada:	
$000.00 to $100	$4.90*
$100.01 to $500	5.30*
$500.01 to $1,000	5.70*
2. All other countries: $24.60	4.80*

6. Insured Mail

Limit of indemnity [1] Not over	Canada	Fees—all other countries
25	$0.60*	$1.30
50	1.30*	1.70
100	1.70*	2.50
150	2.15*	3.60
200	2.50*	3.60
300	3.60*	4.50
400	4.50*	5.20
500	5.20*	6.00
600		6.30
700		6.60
800		6.90
900		7.20
1,000		7.50
1,100		7.80
1,200		8.10

[1] Limits vary by country.

7. Money Orders

a. Orders Issued on Domestic Form (except Canada)

Amount of money order	Fee
$0.01 to $25	$0.80*
$25.01 to $700	1.00*

Note.—Service is not available to all countries. See IMM for service availability. When service is available each order is limited to $700, except $200 to Great Britain and $400 to Norway.

b. Orders Issued on International Form (including Japan) and domestic money orders for payment in Canada: $3.00 per money order.

c. Charge for a photostat of a paid money order issued on a domestic form or pursuant to an international authorization form: $2.00.*

8. Special Handling

Weight	Fee
Not more than 10 pounds	$1.55*
More than 10 pounds	2.25*

9. Special Delivery

Class of mail	Not over 2 pounds	Over 2 pounds
Letters, letter packages, post and postal cards	$3.70*	$3.95*
Other articles	$3.90*	4.50*

10. Restricted Delivery—$2.00*

11. Certificates of Mailing

	Fee
Individual listed pieces: Original or copy of original certificate of mailing or receipt for registered or insured mail (per piece) (Form 3817)	$0.45*
Firm mailing books (per piece) (Form 3877)	0.15*
Identical pieces:	
Up to 1,000 pieces	2.00*
For each additional 1,000 pieces, or fraction	0.25*
Duplicate copy	0.45*

12. Return charges for returned publishers' periodicals mailed to Canada by publishers or registered news agents (781.5a, International Mail Manual).

Weight not over (ounces)	Charge
1	$0.25*
2	.45*
3	.65*
4	.85*
6	1.00*
8	1.10*
10	1.20*
12	1.30*
14	1.40*
16	1.50*

For weights over 1 pound, use the domestic 8th zone fourth-class rate.

13. International Reply Coupons

Selling price for U.S. issued coupons: 95 cents

[FR Doc. 88-4659 Filed 3-2-88; 8:45 am]

BILLING CODE 7710-12-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for

the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s):

(1) *Collection title:* Student Beneficiary Monitoring.
(2) *Form(s) submitted:* G–315, G–315a.
(3) *Type of request:* Revision of a currently approved collection.
(4) *Frequency of use:* On occasion, semi-annually.
(5) *Respondents:* Individuals or households, non-profit institutions.
(6) *Annual responses:* 1,100.
(7) *Annual reporting hours:* 204.
(8) *Collection description:* Under the Railroad Retirement Act, a student benefit is not payable if the student ceases full-time school attendance, marries, works in the railroad industry, has excessive earnings or attains the upper age limit under the Act. The report obtains information to be used in determining if benefits should cease or be reduced.

Additional Information or Comments: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Elaina Norden (202–395–7316), Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC. 20503.

Pauline Lohens,

Director of Information Resources Management.

[FR Doc. 88–4626 Filed 3–2–88; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–25391; File No. SR–Amex–88–2]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 22, 1988, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is amending section 142 of the Company Guide to eliminate the fee assessed listed companies which effect a change in the par value of their securities.

The text of the proposed rule change is available at the Office of the Secretary, American Stock Exchange, Inc. and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Listed companies are required to pay a special $1,000 fee whenever effecting a change in the par value of their securities unless such change is made in conjunction with other structural changes for which a separate fee schedule applies. Since par value changes seldom occur without some other change simultaneously taking place, the $1,000 fee in rarely imposed. Elimination of this special fee is appropriate given the minimal processing work involved.

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(4) in particular in that it will assure the equitable allocation of reasonable fees among issuers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 24, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: February 24, 1988.

[FR Doc. 88–4679 Filed 3–2–88; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

February 26, 1988.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

ACM Government Income Fund, Inc.
Common Stock, $.01 Par Value (File No. 7-3063)
De-Val Financial Corporation
Common Stock, $1.00 Par Value (File No. 7-3064)
Digital Comm. Association, Inc.
Common Stock, $.10 Par Value (File No. 7-3065)
First Interstate Bancorp
Preferred B Adjustable Cumulative Preferred Series B, No Par Value (File No. 7-3066)
Facet Enterprises Inc.
Common Stock, $1.00 Par Value (File No. 7-3067)
Federal Paper Board
$2.875 Cumulative Convertible Preferred A, $1.00 Par Value (File No. 7-3068)
Federal Realty Investment Trust
Shares of Beneficial Interest, No Par Value (File No. 7-3069)
Florida East Coast Industries, Inc.
Common Stock, $6.25 Par Value (File No. 7-3070)
Harmon International Industries, Inc.
Common Stock, $.10 Par Value (File No. 7-3071)
Lands' End Inc.
Common Stock, $.01 Par Value (File No. 7-3072)
Motel 6, L.P.
Depository Units, No Par Value (File No. 7-3073)
Munford, Inc.
Common Stock, $1.00 Par Value (File No. 7-3074)
Murray Ohio Manufacturing Co.
Common Stock, $2.50 Par Value (File No. 7-3075)
Niagara Share Corporation
Common Stock, $1.00 Par Value (File No. 7-3076)
PotLatch Corporation
$3.75 Cumulative Convertible Exchangeable B Preferred, No Par Value (File No. 7-3077)
Putnam Master Income Trust
Common Stock, No Par Value (File No. 7-3078)
Republic Gypsum Co.
Common Stock, $1.00 Par Value (File No. 7-3079)
Saatchi & Saatchi Co., PLC
American Depository Shares (3 ordinary shares par 10 p) (File No. 7-3080)
United Stockyards Corporation
Common Stock, $.01 Par Value (File No. 7-3081)
Wackenhut Corporation
Common Stock, $.10 Par Value (File No. 7-3082)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 18, 1988, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-4684 Filed 3-2-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25308; File No. SR-DTC-87-18]

Self-Regulatory Organizations; Depository Trust Company; Order Approving Proposed Rule Change

The Depository Trust Company ("DTC") on December 21, 1987, filed a proposed rule change with the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") concerning its Same-day Funds Settlement ("SDFS") Service. The Commission published notice of the proposal in the **Federal Register** to solicit public comments.[1] No public comments were received. This order approves the proposal.

1. Description of the Proposal

The proposal would extend the operation of the SDFS Service pilot program for an additional five months from January 31, 1988, to June 30, 1988.[2] The SDFS Service provides depository and transaction settlement services for securities that settle in same-day funds.[3] DTC states that before the development of the SDFS Service, same-day funds securities transactions had to be settled outside the depository environment through physical delivery procedures.

2. DTC's rationale

DTC states in its filing that the proposal is consistent with the Act, particularly section 17A of the Act, in that it would promote the prompt and accurate clearance and settlement of transactions in securities that settle in same-day funds and that the proposed rule change would be implemented in a manner that would safeguard the funds and securities in DTC's custody or control. DTC further states that the SDFS Service, by requiring participants to maintain specified collateral in their accounts, permits daily settlement even where a participant fails to settle and that the SDFS Service protects DTC's participants from risk of loss.

3. Discussion

As the Commission stated in its earlier aproval of the SDFS pilot program, the Commission believes that DTC's SDFS Service has been designed to provide an efficient and safe environment for the centralized clearance and settlement of SDFS Service has been designed to provide an efficient and safe environment for the centralized clearance and settlement of SDFS securities.[4] The Commission continues to believe that physical delivery of SDFS securities is labor-intensive, expensive, error/prone, and that it exposes the settling parties to substantial risks. The Commission also continues to believe that the SDFS Service should provide significant benefits to parties involved in

[1] Securities Exchange Act Rel. No. 25230 (December 28, 1987), 53 FR 190.

[2] On June 9, 1987, the Commission issued an order approving implementation of the SDFS Service on a temporary basis until January 31, 1988. *See* Securities Exchange Act Rel. No. 24689 (July 9, 1987), 52 FR 26613 (File No. SR-DTC-87-04).

[3] Same-day funds (also known as "Fed Funds") are immediately available for re-delivery on the day of receipt. The SDFS Service began in June 1987 with transactions in municipal notes and has since been expanded to include zero-coupon securities that settle in same-day funds.

[4] *See* Securities Exchange Act Rel. No. 24689 (July 9, 1987), 52 FR 26613.

processing transactions in SDFS securities.

Moreover, the Commission believes that temporary approval will enable DTC, its participants, and the Commission to gain experience with the SDFS Service and to identify any problems with, or appropriate changes, to that Service. During the continued temporary approval period, DTC would file under Section 19(b) of the Act any expension of the proposal, including the addition of other SDFS securities. The Commission also understands that DTC will continue its conversations with participants and settling banks concerning SDFS procedures. The Commission also directs DTC to report to the Commission by May 31, 1988, concerning the operation of the SDFS Service.[5] The Commission will consider a DTC proposal for permanent approval at the expiration of the temporary approval period.

4. Conclusion

For the foregoing reasons, the Commission believes that DTC's proposal is consistent with the Act, particularly Section 17A of the Act and the rules and regulations thereunder, in that the proposal should promote the prompt and accurate clearance and settlement of securities transactions in same-day funds and the related safeguarding of such funds and securities.

It is therefore ordered, pursuant to section 19(b) of the Act, that DTC's proposed rule change (SR–DTC–87–18) be, and hereby is, approved on a temporary basis until June 30, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: February 4, 1988.

[FR Doc. 88–4680 Filed 3–2–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–25399; File No. SR–NASD–87–55]

Self-Regulatory Organizations; Proposed Rules by the National Association of Securities Dealers, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 31, 1987 and January 15, 1988, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II, III and IV below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule changes establish an electronic system of mandatory price and volume reporting for over-the-counter ("OTC") securities that are not part of the National Association of Securities Dealers Automated Quotations ("NASDAQ") system, and amend the Interpretation of the Board of Governors—Execution of Retail Transactions in the Over-the-Counter Market, Article III, Section 1 of the Rules of Fair Practice ("Best Execution Interpretation") regarding the execution of retail transactions in the OTC market.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In letters to the Association dated October 8, 1985 and June 17, 1987, the Securities and Exchange Commission ("Commission") directed the NASD to: (1) Develop a nationwide automated market surveillance program for non-NASDAQ OTC securities (commonly referred to as "pink sheet" stocks); (2) develop a rule requiring member firms making a market in these securities to periodically report price and volume information in the NASD; and (3) enhance the Association's routine field examination procedures for the non-NASDAQ OTC securities market.

In response to the Commission's directives, the Market Surveillance Committee met to consider possible approaches to the routine surveillance of this market and subsequently made a series of recommendations to the NASD Board of Governors. At its meeting on September 14, 1987, the Board approved the recommendations of the Market Surveillance Committee.

Proposed new Schedule H to the NASD By-Laws defines the terms non-NASDAQ securities and non-NASDAQ Reporting System and establishes minimum threshold reporting requirements for non-NASDAQ OTC securities. Under section 1 of the proposed rule, the term non-NASDAQ Reporting System is defined as the electronic price and volume reporting system operated by the Association for non-NASDAQ securities. The term non-NASDAQ security is defined as any equity security that is neither included in NASDAQ nor traded on any national securities exchange. The NASD contemplates implementing the proposed price and volume reporting requirements in phases. In this regard, initially, only those NASD members that are subscribers to NASDAQ will be able to enter price and volume transaction data directly into NASDAQ. For those NASD members that are not subscribers to NASDAQ, an alternative electronic reporting vehicle is being developed.

In addition, under section 2 of the proposed Schedule H, price and volume data would have to be provided by members executing principal transactions on non-NASDAQ securities if aggregate volume of sales or purchases exceeds either a minimum of 50,000 shares or $10,000. Further, members executing principal transactions in non-NASDAQ securities must report price and volume data for both sides of the market if the aggregate share or dollar volume is reached on either side of the market. For example, if a member executes an aggregate purchase volume of 70,000 shares, and has an aggregate sale volume of 20,000 shares it will be required to report both the purchase and sale sides of the transactions because the minimum threshold level was reached on the buy side of the market. (Additional examples of the minimum reporting levels established by the proposed rule provisions will accompany the rules as explanatory material in the NASD manual.)

Paragraph (a) to section 2 of proposed Schedule H also requires members to

[5] The report should include information on settlement delays and defaults, general operations statistics, eligible securities and any problems DTC or participants identify with SDFS services.

report the highest price at which the member sold the non-NASDAQ security meeting the minimum reporting level and the lowest price at which the member bought the security. Under the rule proposal the price to be reported on customer transactions would be inclusive of mark-ups or mark-downs.

Paragraph (b) to section 2 of Schedule H provides for the daily reporting of price and volume information of principal transactions on non-NASDAQ securities executed by members. Under proposed new Schedule H, members will have the option to report price and volume information either between the hours of 4:00 p.m. and 6:30 p.m. Eastern Time on the trade date or between 7:30 a.m. and 9:00 a.m. Eastern Time on the next business day. The Board believes that these proposed alternative daily reporting provisions will provide members with ample opportunity to retrieve the required information from their books and records on a timely basis.

The Board is also amending the Best Execution Interpretation by adding new paragraph D to the Interpretation. This amendment to this Interpretation requires members dealing in non-NASDAQ securities to check a minimum of three dealers (or all dealers if three or less) prior to executing any transaction on behalf of a customer.

The NASD has adopted the proposed rule changes pursuant to section 15(A)(b)(6) under the Act. In pertinent part, section 15A(b)(6) mandates that the rules of a national securities association be designed to promote just and equitable principles of trade and to remove impediments to and perfect the mechanisms of a free and open market. By requiring members trading non-NASDAQ securities to report price and volume information on principal trades that meet the minimum threshold levels the proposed new schedule enhances the fair and orderly functioning of the OTC market and thus protects investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comment on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** [1] or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule changes, or

B. Institute proceedings to determine whether the proposed changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. In particular, the Commission wishes to solicit comments on whether the proposed minimum threshold reporting requirements are set at appropriate levels. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by March 24, 1988.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 26, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-4681 Filed 3-2-88; 8:45 am]

BILLING CODE 8010-01-M

[1] The NASD has requested that the Commission approve the proposed rule changes prior to 30 days after publication.

[Release No. 34-25396; File No. SR-NSCC-88-1]

National Securities Clearing Corp.; Processing of Transactions in Foreign Securities

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 19, 1988 NSCC filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would provide NSCC the ability to offer comparison services in foreign securities and would provide for the issuance of netted Member-to-Member receive and deliver instructions with respect to transactions in such securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to provide NSCC with the ability to offer clearing services with respect to foreign securities. Transactions in such securities will be processed in NSCC's over-the-counter comparison system. Compared transactions will enter a Foreign Security Accounting Operation, similar to the current Balance Order Accounting Operation. In the Foreign Security Accounting Operation NSCC will issue netted Member-to-Member receive and deliver settlement instructions; such settlement instructions represent the netted position of each Member with respect to its transactions with another

Member in each foreign security issue in which it had activity. Members have requested that the service be developed so that there is no netting between Members. By netting only on a Member-to-Member basis, the actual parties to the trades will settle the net of their transactions pursuant to whatever arrangements they have agreed upon.

Trades will settle at a single system price, with a resulting clearance cash adjustment. NSCC will not guarantee the ultimate settlement of the transaction or the clearance cash adjustment. In all other respects, the receive and deliver instructions will be treated as Balance Orders undr NSCC's rules. NSCC will charge its regular comparison fees for their service, as well as a separate $2 a side fee for each compared trade.

Because the proposed rule change will allow NSCC to process transactions in foreign securities for the first time, it will promote the prompt and accurate clearance and settlement of securities transactions and it is consistent with the requirements of the Securities Exchange Act of 1934.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule will have an impact or impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change have not been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approved such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to SR-NSCC-88-1 and should be submitted by March 24, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 25, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-4682 Filed 3-2-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-25397; File No. PHLX 88-6]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 5, 1988 the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, ("PHLX" or the "Exchange") pursuant to Rule 19b-4, hereby proposes the following rule change: (Brackets indicate deletions; italics indicate additions.)

OPTIONS RULES

* * * * *

Position Limits

Rule 1001A.(a) [In determining compliance with Rule 1001, option contracts on a market index shall be subject to a contract limitation fixed by the Exchange, which shall not be larger than the equivalent of a $300 million position. For this purpose, a position shall be determined by the product of the closing index value times the index multiplier times the number of contracts on the same side of the market.]

Position limits for options on market indexes shall be as follows:

1. Respecting the Value Line Composite Index, 25,000 contracts total, of which no more than 15,000 contracts can be in the nearest expiration month. For purposes of this rule, positions in the European and American style options on the Value Line Composite Index shall be aggregated.

2. Respecting the National Over-the-Counter Index, 10,000 contracts total.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to allow the PHLX to amend its position limits rule respecting the Value Line Composite Index options contracts ("XVL" and "VLE") and the National Over-the-Counter Index options contracts ("XOC").

The proposed rule change adopts a rule for options contracts respecting the Value Line Composite index similar to that recently approved by the Commission for other broad-based index options (OEX, SPX, XMI, and XII) while delineating that position limits respecting European and American style Value Line Composite Index options are aggregated for position limit purposes. The proposed rule change also converts the computation of position limits to a specified number of contracts respecting the national Over-the-Counter index from a dollar amount standard. The PHLX believes that the proposed rule change is appropriate in view of the

forthcoming introduction of European style Value Line Composite Index options trading as well as the need to conform PHLX traded broad-based index options position limits with those presently applicable to broad-based index options contracts traded on other exchanges.

It should be noted that due to the bull market experienced since the initiation of trading in the XVL on January 11, 1985 at a value of 181.08 and the XOC on May 17, 1985 at a value of 173.06, both indexes increased over 100 points in value before the October market break. On January 4, 1988 the value of the XVL was 208.125 and the value of the XOC was 228.41.

Because current PHLX index option position and exercise limits are expressed in terms of dollar equivalents rather than number of contracts, the Maximum number of contracts allowed under those limits has declined. Conversion of the broad-based index options contracts position limits to a maximum number of options contracts rather than a specified dollar value effectively addresses this problem. The Commission recognized this in recently approving position limit rule changes respecting other broad-based index options contracts to correlate with the increased monetary value of constituent securities. The instant proposed rule change adopts this solution for the unweighted geometric average of securities prices expressed in the Value Line Composite Index as well as the market capitalization weighted Over-the-Counter Index. The proposed rule change effectively addresses the problem of market participants having to constantly address their compliance with position limits expressed as a specific dollar standard, a constantly changing target.

It should be noted, however, that the proposed limits result in an increase in permissible position limits for options on only one of the indexes, the Value Line Composite Index, not the other, the National Over-the Counter Index. The Exchange does not believe activity in over-the counter index options warrants an increase in position and exercise limits for XOC options at this time. On the other hand, to coincide with the introduction of European style Value Line Composite Index options, and to remain competitive with the other index options markets, we are seeking an increase in position limits for options in that index comparable to those approved for other broad-based index options. Because of the breadth of the Value Line Composite Index, we do not believe position and exercise limits at this level pose a material risk of manipulation or other trading abuses; indeed, because of its breadth it should pose even a lesser degree of concern than other broad-based index options. The proposed rule change is consistent with Section 6(b)(5) of the Exchange Act and particularly in that section it is designed to prevent fraudulent and manipulative acts and practices, and to protect investors and promote the public interest.

B. Self-Regulatory Organizations Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others.

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days or such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approved such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 24, 1988.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 25, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 4683 Filed 3-2-88; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16290; 812-6925]

The American Express Funds et al.; Application

February 29, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for approval under the Investment Company Act of 1940 ("1940 Act").

Applicants: The American Express Funds ("Company") and American Express Service Corporation (formerly TRS Service Corporation) ("American Express")

Relevant 1940 Act Section: Approval requested under section 11(a).

Summary of Application: Applicants seek an order approving certain proposed offers of exchanges of shares among the existing investment funds offered by the Company and any other future investment companies for which American Express serves as investment manager or distributor and are sold in a manner substantially described herein ("Fund" or "Funds"), and permitting the imposition of an administrative fee.

Filing Dates: The application was filed on November 24, 1987, and amended on February 23, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on March 22, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve Applicants with the request either personally or by mail and send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549.

Applicants, c/o Willkie Farr & Gallagher, 153 East 53rd Street, New York, New York 10022, Attention: Rose F. DiMartino, Esq.

FOR FURTHER INFORMATION CONTACT: Victor R. Siclari, Staff Attorney (202) 272–2190, or Brion R. Thompson, Special Counsel (202) 272–3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application, a complete copy of which is available for a fee from the SEC's Public Reference Branch in person or from the SEC's commercial copier who can be contacted at (800) 231–3282 (in Maryland at (301) 258–4300).

Applicants' Representations

1. The Company is an open-end, management investment company registered under the 1940 Act. The Company is a series company that currently intends to offer investors a selection of nine Funds: the Money Market Fund and the Tax Free Money Market Fund (together, the "No Load Funds"); and the Tax Free Municipal Bond Fund, the Corporate Bond Fund, the Intermediate Term Bond Fund, the U.S. Government Bond Fund, the Equity Value Fund, the Equity Growth Fund and the International Equity Fund (collectively, the "Load Funds").

2. Shares of the Company will be offered only to persons who open an American Express Investment Management Account ("Account") maintained by American Express. Participants in the Account will receive an Investment Guide, which will provide guidelines that will help prospective investors categorize themselves as having one of four investment goals. In addition, participants in the Account will receive a periodic investment publication, which will contain articles concerning economic and financial trends contributed by investment experts. Such investment publication will also contain recommended investment portfolios developed by a panel of investment experts ("the Advisory Panel"), indicating how investors having the goals identified in and through use of the Investment Guide could allocate Account assets among the Funds. Neither the Company, American Express nor the Advisory Panel will be providing investment advice to Accountholders on an individualized basis taking their particular financial situations into account. Rather, the recommended investment portfolios as described from time to time in periodic investment publications will represent generic advice to broad categories of investors having the goals described in the Investment Guide.

3. As distributor of the shares of the Company, American Express will maintain a continuous public offering of shares of the No Load Funds at their respective current net asset values without a sales charge, and a continuous public offering of shares of the Load Funds at their respective current net asset values plus a sales charge. American Express is expected to be paid an annual fee, authorized pursuant to a Distribution Plan adopted pursuant to Rule 12b–1 under the 1940 Act, for certain services rendered and expenses incurred in connection with the offering and sale of Fund shares. American Express also serves as investment manager of each Fund and affiliates of American Express serve as investment advisers to the various Funds.

4. Applicants seek the ability to permit the following exchange offers between Funds: (i) Shares of a Load Fund may be exchanged for shares of another Load Fund on the basis of relative net asset value without the payment of a sales load; (ii) shares of a No Load Fund may be exchanged for shares of another No Load Fund on the basis of relative net asset value without the payment of a sales load; (iii) shares of a Load Fund may be exchanged for shares of a No Load Fund on the basis of relative net asset value without the payment of a sales load; and (iv) shares of a No Load Fund may be exchanged for shares of any Load Fund subject to the sales load normally charged by the Load Fund (unless the investment in those shares was previously subject to a sales load by one of the Funds). Shareholders of the Company will be permitted to make six exchanges into and out of each Fund during any one year pursuant to the exchange privilege between individual Funds and pursuant to the multiple exchange privilege among Funds as described further below.

5. It is currently contemplated that exchanges between individual Funds will not be subject to the payment of any service charge. However, the Company reserves that right to impose a nominal administrative fee in the future (in an amount not exceeding $10.00 per exchange), payable to the Company's transfer agent and applied uniformly to all shareholders. If it is determined to allow a reduced sales charge depending on the size of the investment, a right of accumulation would be incorporated into the Company's prospectus. In the event that a sales charge is imposed on an exchange, any right to accumulation as described in the Company's prospectus would be considered in determining the sales charge applicable to the exchange. All waivers of sales charges as set forth in the prospectus of the Company in accordance with Rule 22d–1 under the 1940 Act will apply in connection with exchange offers. Also, each exchange will be subject to the minimum investment requirements of the Fund's shares that are to be acquired in the exchange.

6. In each of the exchanges described above, shares acquired through reinvestment of dividends and capital gain distributions will be deemed to be sold with a sales load, if any, equal to the sales load, if any, previously paid on the shares on which the dividend was paid or distribution made. Moreover, when a shareholder exchanges less than all of his shares of a particular Fund, the share upon which the highest sales load was previously paid will be deemed to be exchanged first.

7. Company shareholders have the option, though not the obligation, to establish a personal investment plan. An investment plan for a particular investor consists of (1) selections of the Funds he has identified as those in which he wishes to invest and (2) designations of the percentages of his aggregate investment dollars that he has indicated should be invested in the Funds selected. After an investment plan has been established, unless an investor specifically requests that the amount be invested in another manner, a single dollar amount invested in the Company would automatically be allocated among the Funds and in the percentages noted in the investor's investment plan.

8. The Company offers each shareholder with an investment plan the right to specifically request in writing to the Company's transfer agent that the value of his interest in all Funds be reallocated among the Funds. Reallocation of a shareholder's assets in this manner will involve the exchange of shares in one or more funds for shares in one or more other Funds. That is, multiple exchanges among several Funds will be effected in a manner identical to that described above with respect to exchanges between individual Funds, except that any adminsitrative fee would be charged only once. A shareholder can reallocate his holdings in the Company at any time as long as doing so does not result, together with exchanges between individual Funds, in more than six exchanges into and out of a particular Fund in any year.

Applicants' Analysis

1. The proposed exchange privilege between individual Funds and the multiple exchange privilege among the Funds would permit a shareholder of any Fund to exchange, in a simple transaction, his Fund shares for shares of any other Fund on a fair and equitable basis when market, tax considerations or changes in the shareholder's investment objectives warrant such an exchange, thereby giving them necessary flexibility in their financial planning. Neither the Company, American Express nor any of their respective employees or affiliates will contact Company shareholders by telephone to suggest in any way that it would be advisable or appropriate to reallocate their holdings. To further discourage ill-considered reallocations, such reallocations will be effected only by the explicit, written direction of the shareholder, the number of reallocation transactions in a given year will be limited, and the Company's prospectus will disclose the potential tax consequences arising from such reallocations.

2. If any administrative fee were to be imposed on individual and multiple exchanges, the purpose of the fee would be to defray the administrative expenses incurred by the Company's transfer agent in the exchanges. As noted above, any administrative fee for effecting a multiple exchange will be equal to any fee for effecting an individual exchange, that is, any fee charged will not be applied to each exchange that forms a component part of a multiple exchange. The basis for this approach is that computer systems have been designed to treat a multiple exchange transaction as a single transaction, with the result that it is not expected to be more difficult or costly to process a multiple exchange transaction than to process an individual exchange between two Funds.

Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditions:

1. Any administrative fee or any scheduled variation thereof will be uniformly applied to all offerees.

2. The Company's exchange privilege between individual Funds and multiple exchanges among Funds, as well as any administrative fee, will comply with the requirements of proposed Rule 11a–3 under the 1940 Act, if and when it is adopted.

3. Shareholders of the Company will be notified of any administrative fee that may be imposed on an exchange transaction bt means of the Company's prospectus and in other communication, including sales literature or advertising that describes the exchange program.

4. Shareholders of the Company will be notified of the Company's exchange program by means of the Company's prospectus and in other communications, including sales literature or advertising.

5. The Applicants acknowledge that the grant of the order requested by this Application will not imply SEC approval, authorization or acquiescence in any particular level or form of charges imposed by American Express on investors, including charges of the Funds, or any other fees associated with opening or maintaining the Account, other than the assessment of sales loads upon exchanges and the administrative fee on exchanges specifically described in this Application. In addition, the Applicants will comply with all provisions of law, including any regulations promulgated by either the SEC or the National Association of Securities Dealers, applicable to such charges.

For the Commission, by the Division of Investment Managment, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–4685 Filed 3–2–88; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16288; 812–6959]

Interact Portfolio Series and Interact Distributors, Inc.; Application

February 26, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Interact Portfolio Series (the "Trust") and Interact Distributors, Inc. ("IDI").

Relevant 1940 Act Section: Approval requested under section 11(a).

Summary of Application: Applicants seek an order to permit certain proposed offers of exchange of shares among the various series ("Fund or Funds") of the Trust on a basis other than their respective net asset values per share at the time of exchange. Applicants request that any order issued in response to this application also be applicable to any other series of the Trust and to any other investment company (or series thereof) ("Additional Funds") not yet in existence for which IDI in the future may serve as distributor, provided that the shares of such Additional Funds have sales charge characteristics similar to those described herein.

Filing Date: The application was filed on January 15, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on March 18, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. The Applicants should be served with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, One Financial Center, Boston, Massachusetts 02111.

FOR FURTHER INFORMATION CONTACT: Brian P. Kindelan, (202) 272–3045 or Brion R. Thompson, Special Counsel, (202) 272–3016 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier which may be contacted at (800) 231–3282 (in Maryland (303) 253–4300).

Applicants' Representations and Analysis

1. The Trust is registered as an open-end management investment company under the 1940 Act. IDI is the principal underwriter of shares of the Trust and has filed an application with the SEC to become registered as a broker-dealer under the Securities Exchange Act of 1934. IDI may, in the future, serve as distributor for Additional Funds which IDI may wish to include in the proposed exchange program. Applicants undertake to avail themselves of prospective relief for the Additional Funds only upon the terms and conditions described in this application.

2. It is proposed that (i) certain series of the Trust will be offered at their relative net asset values without the payment of any sales charge ("No-Load Funds"), (ii) certain series of the Trust will be offered at their relative net asset values plus a sales charge ("Load Funds"), and (iii) certain series of the Trust will be offered at their relative net

asset values plus a sales charge which is generally less than the corresponding charge for the Load Funds ("Reduced Load Funds").

3. The public offering price for the Load Funds is the net asset value next determined after a purchase order becomes effective plus a proposed sales charge of up to 4.75% of the amount of the purchase. The public offering price for the Reduced Load Funds is the net asset value next determined after a purchase order becomes effective plus a proposed sales charge of up to 1.75% of the amount of the purchase. From time to time, the sales charge applicable to one or more of the Funds may change. IDI may from time to time also act as principal underwriter for certain Additional Funds which at such time may be considered Load Funds, Reduced Load Funds or No-Load Funds, as the case may be. Additional Funds which are Reduced Load Funds may have a sales charge which is generally higher or lower than existing Reduced Load Funds.

4. (a) Under the proposed exchange program, shares of a Load Fund may be exchanged for shares of any other Load Fund, any Reduced Load Fund or any No-Load Fund on the basis of the relative net asset values of the shares at the time of the exchange. After the first exchange of shares of a Load Fund for shares of a Reduced Load Fund or a No-Load Fund, the shares of such Reduced Load or No-Load Fund acquired by an exchange from a Load Fund may be exchanged for shares of any Load Fund on the basis of relative net asset values of the shares at the time of the subsequent exchange.

(b) Shares of a Reduced Load Fund may be exchanged for shares of any other Reduced Load Fund or any No-Load Fund at relative net asset value at the time of the exchange. Shares of a Reduced Load Fund may be exchanged for shares of any Load Fund at relative net asset value at the time of the exchange, plus a sales charge equal to the difference between the applicable sales charge assessed by the Load Fund and the sales charge already assessed by the Reduced Load Fund, except where the shares of the Reduced Load Fund were themselves acquired by an exchange from a Load Fund.

(c) Shares of a No-Load Fund may be exchanged for shares of any other No-Load Fund at relative net asset value at the time of the exchange. Share of a No-Load Fund may be exchanged for shares of a Reduced Load Fund or Load Fund at relative net asset value at the time of the exchange, plus a sales charge equal to the applicable sales charge assessed by the Reduced Load Fund or the Load Fund, except (i) where the shares of the No-Load Fund were themselves acquired by an exchange from a Reduced Load Fund Load Fund in which case the exchange will be made at relative net asset value at the time of the exchange, plus a sales charge equal to the difference between the applicable sales charge assessed by the Load Fund and the sales charge already assessed by the Reduced Load Fund, and (ii) where the shares of the No-Load Fund were themselves acquired by an exchange from a Load Fund in which case the exchange will be made at relative net asset value at the time of the exchange.

5. In the case of an exchange of shares among the Funds, the sales charge assessed with respect to the acquired Fund will be no greater than the excess, if any, of the sales charge applicable to that Fund in the absence of an exchange over any sales charge previously assessed on the exchanged Fund.

6. In each of the exchanges described above, shares acquired through reinvestment of dividends and capital gains distributions will not be subject to a sales load. The foregoing exchange transactions are subject to the minimum initial investment required by each Fund. In the event that a sales charge is imposed on an exchange, any provisions as described in the prospectus of the Trust allowing for a reduced sales charge will be considered in determining the sales charge, if any, applicable to the exchange.

7. Each shareholder is entitled to exchange his shares between Funds six times each year per Fund in which he is a shareholder without incurring any sales charge except a sales charge as described above. After six exchanges per Fund, each exchange of shares will be subject to an administrative fee of $25 payable to the Fund's shareholder servicing agent. The fee is designed to defray administrative expenses in connection with effecting exchanges.

8. Shareholders will be notified of the proposed exchange privilege and the administrative fee by means of the prospectuses of the Trust and in other communications that describe the proposed exhange program.

9. The purpose of the Applicants' proposed exchange program is to permit a shareholder of any Fund to exchange, in a simple transaction, his Fund shares for shares of any other Fund on a fair and equitable basis when market or tax considerations or changes in the shareholder's investment objectives warrant such an exchange. Also, the proposed exchange program is intended to treat shareholders exchanging into a Fund and its existing shareholders equitably, without disrupting the distribution system of the Applicants.

10. If these exchanges were always made at relative net asset value, the distribution system of the Load Funds and Reduced Load Funds would be disrupted. For example, an investor could easily avoid paying the applicable sales charge by acquiring shares of a No-Load Fund and immediately exchanging those shares for shares of a Load Fund or a Reduced Load Fund. Also, an investor could avoid the differential in sales charges between a Load Fund and a Reduced Load Fund by initially purchasing shares of a Reduced Load Fund and immediately exchanging those shares for shares of a Load Fund. Thus investors could acquire shares of the Load Fund or the Reduced Load Fund at other than the current offering price described in such Fund's prospectus. The offers of exchange proposed by the Applicants would avoid these problems, would be equitable to all shareholders and would benefit exchanging shareholders by, in effect, crediting them for sales charges previously paid.

11. Applicants further submit that the requested approval should permit exchange offers on the basis described in their application to holders of shares of No-Load or Reduced Load Funds which in the future change the level of their sales charges and/or become Load Funds, and to holders of shares of Load Funds and Reduced Load Funds which in the future become Reduced Load or No-Load Funds and/or change their sales charges, as well as to holders of shares of any Additional Funds for which IDI may act in the future as principal underwriter, to the extent any such Fund or Additional Fund has sales charge features consistent with those described in this application and offers the exchange privileges described therein.

Applicants' Conditions

If the requested Order is granted, the Applicants agree that they will comply with the provisions of proposed Rule 11a–3 under the 1940 Act when, and if, it is adopted by the Commission.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–4686 Filed 3–2–88; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VI Advisory Council, located in the geographical area of Little Rock, Arkansas, will hold a public meeting at 10:30 a.m. Tuesday, March 22, 1988, at the Riverfront Hilton Inn, #2 Riverfront Place, North Little Rock, Arkansas 72114, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Donald L. Libbey, District Director, U.S. Small Business Administration, 320 West Capitol, Suite 601, Little Rock, Arkansas 72201 (501) 378–5871.

Jean M. Nowak,

Director, Office of Advisory Councils.

February 24, 1988.

[FR Doc. 88–4587 Filed 3–2–88; 8:45 am]

BILLING CODE 8025–01–M

Region IX Advisory Council; Public Meeting

The U.S. Small Business Administration, Region IX Advisory Council, located in the geographical area of Honolulu, Hawaii, will hold a public meeting at 9:00 a.m. on Friday, March 18, 1988, at the Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Conference Room 5311, Honolulu, Hawaii 96850, to discuss such matters as may be presented by members, staff of the Small Business Administration and or others present.

For further information, write or call Charles T. C. Lum, District Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2213, Honolulu, Hawaii 96850 (808) 541–2990.

Jean M. Nowak,

Director, Office of Advisory Councils.

February 24, 1988.

[FR Doc. 88–4588 Filed 3–2–88; 8:45 am]

BILLING CODE 8025–01–M

[Public Notice CM–8/1172]

Organization for the International Telegraph and Telephone Consultative Committee (CCITT) Study Group D; Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on April 12, 1988 at 9:30 a.m. in room 1207, Department of State, 2201 C Street, NW., Washington, DC.

Study Group D deals with data communications.

The purpose of the meeting will be to review and approve U.S. Contributions and consider nomination of delegates to the upcoming meeting of Study Group XVII scheduled to begin on April 25, 1988 in Geneva, Switzerland, and to consider any other issues related to Study Group D interest.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, D.C.; telephone (202) 653–6102. All attendees must use the C Street entrance to the building.

Date: February 23, 1988.

Earl S. Barbely,

Director, Office of Technical Standards and Development; Chairman, U.S. CCITT National Committee.

[FR Doc. 88–4557 Filed 3–2–88; 8:45 am]

BILLING 4710–07–M

[Public Notice CM–8/1171]

Reform Observation Panel for UNESCO, Partially Closed Meeting

The Reform Observation Panel for UNESCO will meet on March 23, 1988 in Room 3524 of the Department of State, 2101 C Street, NW., Washington, DC. The meeting will begin at 2:00 p.m.

The principal agenda items will be:

—Assessment of the progress of reform at UNESCO.

—Adoption of the Panel's report to the Secretary.

The purpose of the meeting will be to discuss the progress of reform at UNESCO and adopt the Panel's report. Because the meeting will include a classified briefing, and discussion of documents classified pursuant to Executive Order 12356, a determination has been made that the meeting be closed in part to the public pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(1) and (c)(9)(B). The initial portion of the meeting will be open to the public until approximately 3:00 p.m.

Access to the Department of State is controlled for security reasons. Members of the public who wish to attend the open portion of the meeting or who have requests for further information on the meeting should be directed to the Panel's Executive Secretary, Mr. Raymond E. Wanner, Room 5331, Department of State, 2101 C Street, NW, Washington, DC 20520 (202) 647–6878.

Date: February 18, 1988.

Raymond E. Wanner,

Executive Secretary, Reform Observation Panel.

[FR Doc. 88–4558 Filed 3–2–88; 8:45 am]

BILLING CODE 4710–19–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB on February 26, 1988

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on February 26, 1988, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Annette Wilson, or Cordelia Shepherd, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, telephone, (202) 366–4735, or Gary Waxman or Sam Fairchild, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection

requirements must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on February 26, 1988.

DOT No: 3022
OMB No: 2120–0014
Administration: Federal Aviation Administration
Title: Procedues for non-Federal Navigation Facilities, FAR 171
Need for Information: The information is needed to insure that all navigation facilities are operating properly and within certain specified tolerances
Proposed Use of Information: The FAA issues instrument flight rule procedures based on the assumption that the navigational equipment is operating properly
Frequency: On Occasion/Monthly
Burden Estimate: 19,112
Respondents: Airport sponsors
Form(s): FAA 198, 6030–1, 418, 6790–4

DOT No: 3023
OMB No: 2138–0004
Administration: Research and Special Programs Administration
Title: Part 2348—Submission of Audit Reports
Need for Information: Check carrier continuing fitness, corroborate carrier's Form 41 filings and to fulfill a U.S. treaty obligation
Proposed Use of Information: To monitor carrier fitness, verify Form 41 submissions, and to meet U.S. treaty obligations
Frequency: Annual
Burden Estimate: 17 hours
Respondents: Large certificated air carriers
Form(s): None

DOT No: 3024
OMB No: 2127–0510
Administration: National Highway Traffic Safety Administration
Title: Consolidated Vehicle Identification Number Requirements: Trailer Manufacturers and Vehicle Theft Prevention Standards (49 CFR 571.115, and Parts 541, 565 and 567)
Need for Information: To identify the motor vehicles and trailers that are registered within a state
Proposed Use of Information: These standards specify physical requirements for a vehicle identification number, its installation, format, and content to simplify information retrieval, and increase the efficiency of defect recall campaigns. Manufacturers must label major component parts of designated high-theft carlines with the VIN and mark certain replacement parts with the letter "R"
Frequency: On occasion
Burden Estimate: 374,666
Respondents: Businesses/small businesses
Form(s):

DOT No: 3025
OMB No: 2120–0065
Administration: Federal Aviation Administration
Title: Airports Grants Program
Need for Information: The FAA collects information from airport sponsors and planning agencies in order to administer the airport grants programs
Proposed Use of Information: Data is used to determine eligibility, assure proper use of Federal funds and assure project accomplishment
Frequency: On occasion, quarterly
Burden Estimate: 280,437 hours
Respondents: State and local governments
Form(s): FAA Forms 5100–60/61/62/63/100/108

DOT No: 3026
OMB No: 2120–0042
Administration: Federal Aviation Administration
Title: Aircraft Registration
Need for Information: All aircraft must be registered before they may be flown. The registration record also provides evidence of ownership
Proposed Use of Information: The information collected is used by the FAA to register an aircraft or hold an aircraft in trust
Frequency: On occasion
Burden Estimate: 87,867 hours
Respondents: Anyone wishing to register an aircraft
Form(s): AC 8050–1/2/4/81/117

DOT No: 3027
OMB No: 2127–0019
Administration: National Highway Traffic Safety Administration
Title: 49 CFR Part 537, Automotive Fuel Economy Reports
Need for Information: To see how the manufacturers are complying with average fuel economy standards
Proposed Use of Information: Major domestic and foreign automobile manufacturers provide NHTSA with technical and fuel economy performance information which is examined to see how the manufacturer will comply with applicable average fuel economy standards. The information is reported to Congress and used to respond to inquiries, and evaluation of future standards
Frequency: Semi-annually and annually
Burden Estimate: 4,500
Respondents: 26
Form(s): None

DOT No: 3028
OMB No: 2120–0517
Administration: Federal Aviation Administration
Title: FAR Part 150—Airport Noise Compatibility Planning
Need for Information: Airport operators voluntarily submit noise exposure maps and noise compatibility programs to the FAA for review and approval. FAA approval makes these programs' noise compatibility projects eligible for an 8 percent set-aside of discretionary grant funds under the FAA Airport Improvement Program
Frequency: On occasion
Burden Estimate: 65,700 hours
Respondents: State and local governments and businesses
Form(s): N/A

DOT No: 3030
OMB No: 2120–0518
Administration: Federal Aviation Administration
Title: Special Federal Aviation Regulation—Special Flight Authorizations for Noise Restricted Aircraft
Need/Use of Information: Large Turbojets aircraft are prohibited at U.S. airports unless compliance with Part 36 noise levels is demonstrated. Therefore, noncompliance aircraft operators need to apply for a Special Flight Authorization to dispose of the aircraft or take it to be modified to comply. The FAA will use the information to process that authorization
Frequency: On occasion
Burden Estimate: 75 hours
Respondents: Operators of large turbojet aircraft
Form(s): N/A

DOT No: 3031
OMB No: New
Administration: United States Coast Guard
Title: Self Inspection of Fixed OCS Facilities

Need for Information: This information collection requirement will serve as notification that the owner of a fixed OCS facility has inspected the facility for compliance with Coast Guard regulations
Proposed Use of Information: Coast Guard will use the information to focus on problem facilities and to assess the adequacy of the required items of safety equipment onboard OCS facilities
Frequency: Annually
Burden Estimate: 9440
Respondents: Owners fixed OCS facilities
Form(s): CG–5432

DOT No: 3032
OMB No: 2115–0086
Administration: United States Coast Guard
Title: Application for Optional Simplified Measurement
Need for Information: This information collection requirement is necessary to allow certain vessels to be measured under a simplified measurement system. This option gives and vessel owners the opportunity to submit less information than would be required under the formal admeasurement system
Proposed Use of Information: The Coast Guard uses this information to establish a vessel's register dimensions and tonnages
Frequency: On occasion
Burden Estimate: 36,000
Respondents: Vessel owners and agents
Form(s): CG–5397

DOT No: 3033
OMB No: 2115–0551
Administration: United States Coast Guard
Title: Vessel Reporting Requirements
Need For Information: This information collection requirement increases the likelihood of timely assistance being available to vessels in distress. This is especially true of those who are unable to communicate their distresses to the owner or others who could help
Proposed use of Information: The Coast Guard uses this information to determine if the vessel reported on is in distress and to take action to provide needed assistance
Frequency: On occasion
Burden Estimate: 507
Respondents: Owner, charterer, managing operator or agent of U.S. vessels
Form(s):

DOT No: 3034
OMB No: 2137–0039
Administration: Research and Special Programs Administration
Title: Hazardous Materials Incident Report
Need for Information: Reports of hazardous materials accidents are needed for evaluation of the adequacy of the hazardous materials transportation standards as set forth in the regulations for their transportation
Proposed Use of Information: The information is used to determine if the hazardous materials regulations need to be made more restrictive or less restritive
Frequency: On occasion
Burden Estimate: 12,716
Respondents: 2275
Forms(s): DOT–F–5800.1

DOT No: 3035
OMB No. 2137–0022
Administration: Research and Special Programs Administration
Title: Recordkeeping and Information Collection for Cylinders
Need for Information: To verify that charged cylinders are safe for shipment in interstate commerce
Proposed Use of Information: To verify that cylinders are properly marked, retested, repaired, and safety charged so as to maintain the safety standards set forth in the Federal Regulations for Hazardous Materials Transportation
Frequency: As required in 49 CFR 173.34 and 173.303(d) for various cylinders
Burden Estimate: 122,084 hours
Respondents: 102,970
Form(s): 102,970

DOT No: 3036
OMB No: 2133–0510
Administration: Maritime Administration
Title: Request for Waiver of Service Obligation, Request for Deferment of Service Obligation, Request for Review of Waiver/Deferment Decisions
Need for Information: To document conditions and causes under which midshipment request waivers, Deferments, and Reviews of Waiver/Deferment decisions
Proposed Use of Information: To fairly and impartially evaluate requests for, waivers deferments and review of waiver/deferment decisions
Frequency: On occasion
Burden Estimate: 30 hours
Respondents: Midshipment
Form(s): MA 935, MA 936, MA 937

DOT No: 3037
OMB No: 2133–0509
Administration: Maritime Administration
Title: Service Obligation Compliance Report
Need for Information: To document compliance with mandatory service obligation
Proposed Use of Information: To evaluate reports of service obligation compliance
Frequency: Annually
Burden Estimate: 582 hours
Respondents: Graduates of state and Federal Maritime Academies
Form(s): MA 930

DOT No: 3038
OMB No: 2132–0008
Administration: Urban Mass Transportation Administration
Title: Section 15 Reporting System
Need for Information: The date enables the operators to compare performance with peers and to assist local, State and the Federal Government and the General public in setting policy and in making investment decisions
Proposed Use of Information: Selected Section 15 data are used to allocate Federal funds for assistance to transit agencies as authorized by Section 9 of the UMT Act of 1964, as amended
Frequency: Annually
Burden Estimate: 277,172
Respondents: State and local governments, business or other for profit organizations
Form(s): UMTA 2710 Series

Issued in Washington, DC on February 26, 1988.

Robert J. Woods,

Director of Information Resource Management.

[FR Doc. 88–4544 Filed 3–2–88; 8:45 am]

BILLING CODE 4910–62–M

Coast Guard

[CGD8 88–03]

Vessel Certificates and Exemptions Under the International Regulations for Preventing Collisions at Sea (72 COLREGS)

AGENCY: Coast Goard, DOT.

ACTION: Notice of granting of certificates of alternative compliance to vessels.

SUMMARY: This notice lists commercial vessels granted Certificates of Alternative Compliance by the Commander, Eighth Coast Guard District since 27 April 1987. This notice lists vessels which, due to their special construction and purpose, cannot comply fully with certain provisions of the International Navigation Rules for Preventing Collisions at Sea (72 COLREGS) without interfering with the vessel's special functions. The intent of this notice is to advise the mariner of those vessels that have been granted Certificates of Alternative Compliance.

EFFECTIVE DATE: March 3, 1988.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Dean W. Kutz, USCG, c/o Commander, Eighth Coast

Guard District (mvs), Hale Boggs Federal Building, Room 1341, 500 Camp Street, New Orleans, LA 70130-3396. Telephone (504) 589-6271.

SUPPLEMENTARY INFORMATION: Under the provisions of subsection 1605(c) of Title 33 United States Code, the Coast Guard publishes, in the **Federal Register**, a listing of vessels granted Certificates of Alternative Compliance.

Certificates of Alternative Compliance are based on a determination that a vessel cannot comply fully with International Rules for light(s), shape(s), and sound signal provisions without interference with the vessel's special function. The alternative allowed results in the closest possible compliance with Annex I of the 72 COLREGS. The Eighth Coast Guard District has on record a total of 12 vessels to which it granted Certificates of Alternative Compliance since 27 April 1987. These vessels are incapable of complying with the 72 COLREGS light provisions. Following is a list of commercial vessels that are not in compliance with the 72 COLREGS and have been issued Certificates of Alternative Compliance.

The following vessels carry the after (second) masthead light at the noted horizontal distance from the forward masthead light:

Vessel	Official No.	After masthead light carried at the designated horizontal distance (in meters) from the forward masthead light
GAY HEAD	643770	15.84 M
SAGE	659902	16.15 M

The following vessels carry the side lights forward of the masthead (single) light.

Vessel	Official No.	Sidelights carried at designated horizontal distance (in meters) forward of the masthead (single) light
CHAD G.	598829	.15 M
KENT JOHN	550491	2.90 M
KIM SUSAN	559393	2.90 M
CAMERON SEAHORSE	632330	4.27 M
MOBILE SEAHORSE	635750	4.27 M
TAMPA SEAHORSE	638867	4.27 M
SABINE SEAHORSE	641140	4.27 M
TONI LYNN II	563177	3.05 M

The following vessels carry the second masthead light at a horizontal distance of 97.43 meters from the forward masthead light at a vertical height of 17.91 meters from the main deck. The second masthead light, when viewed from dead ahead, is obscured by the radar mast approximately 50.4 minutes of arc.

Vessel	Official No.
CAPE FAREWELL	549153
CAPE FLATTERY	550900

Dated: February 24, 1988.

Peter J. Rots,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 88-4676 Filed 3-2-88; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-88-8]

Petitions for Exemption; Summary and Disposition

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information is the summary is intended to affect the legal status of any petition or its final dispositions.

DATE: Comments on petitions received must identify must identify the petition docket number involved and must be received on or before: March 23, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No., 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice of published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on February 26, 1988.

Denise D. Hall,

Acting Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
25512	Ameriflight, Inc	14 CFR 135.225(b)	To allow pilots of petitioner to begin instrument approach procedures to airports without a latest weather report from an approved source which indicates that weather there is at or above instrument landing minimums.
25528	Ketchum Air Service, Incorporated	14 CFR 43.3(g)	To allow pilots employed by petitioner to perform the preventive maintenance functions of removing and/or replacing the passenger seats of aircraft used under Part 135.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought, deposition
25445	Aviation Systems, Inc. (ASI)	91.79(b) & (c), 91.109, 91.116 (a) and (b), 91.121(b).	To allow certain training operations to be conducted at night without operating the aircraft's positions light. Partial grant: Jan. 28, 1988.
25440	Ryan Aviation dba Ryan International Airlines.	14 CFR Part 121	To eliminate the 1-year instructor employment requirement provided that the instructor has acquired at least the equivalent experience, required by Appendix H of Part 121, with any Part 121 carrier. Petitioner requested the exemption for its instructors and Flight Safety International (FSI) instructors contracted by petitioner for training. Grant, Feb. 16, 1988.
25483	Air Transport Association of America	14 CFR Part 43, Appendix B, paragraph (d); 45.11(a) and (d); 91.27(c); and 91.173(d).	To allow petitioner's member airlines to operate their aircraft: without marking the aircraft model and serial number on the aircraft fuselage exterior; without keeping an FAA Form 337 on board an aircraft that has a fuel tank installed in the passenger or baggage compartment; without displaying 12-inch nationality and registration marks when penetrating an Air Defense Identification Zone (ADIZ) or Defense Early Warning Identification Zone (DEWIZ); and without having the aircraft identification plate secured to the aircraft fuselage exterior. Partial grant, Feb. 9, 1988.
25176	Regional Airline Association	14 CFR 135.293, 135.297, and 135.351(c).	To allow members of petitioner and any other commuter airline to permit the satisfactory completion of an approved course of training in an airplane Advanced Training Device to be substituted for the recurrent pilot competency/instrument proficiency check requirements of Part 135 on an alternating basis. Grant, Feb. 18, 1988.
25112	Department of Energy	91.73 (a) and (b)	To allow petitioner to conduct defense training operations in helicopters without required aircraft lighting configurations. Partial grant, Jan. 28, 1988.

[FR Doc. 88-4549 Filed 3-2-88; 8:45 am]
BILLING CODE 4910-13-M

[Summary Notice No. PE-88-7]

Petitions for Exemption; Summary and Disposition

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: March 23, 1988.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. ——, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on February 23, 1988.

Denise D. Hall,

Acting Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
25504	International Council of Air Shows	14 CFR 61.3(a)	To allow member pilots of petitioner to operate aircraft during airshows being conducted under a certificate of waiver when they do not have their pilot certificate in their personal possession.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought, disposition
23713	SimuFlite Training International Division	14 CFR 61.57 (a)(1), (c), and (d); 61.63(d) (2) and (3); 61.67(d)(2); 61.157(d) (1) and (2) and (e) (1) and (2); Appendix A of Part 61; and Appendix H of Part 121.	To allow petitioner to use FAA-approved simulators to meet certain training and testing requirements of the FAR. GRANT, February 9, 1988.
23921	FlightSafety International	14 CFR 61.57 (a)(1), (c), and (d); 61.63(d) (2) and (3); 61.67(d)(2); 61.157(d)(1) and (2) and (e) (1) and (2); Appendix A of Part 61; and Appendix H of Part 121.	To allow pilots contracting with petitioner to make the takeoffs and landings required by § 61.57 (c) and (d) in petitioner's Phase I and Phase II simulators in lieu of the aircraft in flight. GRANT, February 9, 1988.
25420	Milam International, Inc., d/b/a International Jet Aviation Services.	14 CFR 135.89(b)(3)	To allow petitioner to operate its pressurized Learjet aircraft up to and including 41,000 feet mean sea level without requiring at least one pilot seated at the controls to wear, secured and sealed, an oxygen mask except when the cabin pressure altitude exceeds 12,000 feet mean sea level. DENIAL, February 10, 1988.

[FR Doc. 88-4550 Filed 3-2-88; 8:45 am]
BILLING CODE 4910-13-M

Flight Service Station at Akron, CO; Closing

Notice is hereby given that on or about March 10, 1988, the Akron, Colorado Flight Service Station will be closed. Services to the aviation public formerly provided by this facility will be provided by the Automated Flight Service Station in Denver, Colorado. This information will be reflected in the FAA Organization Statement the next time it is issued.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in Seattle, Washington, on February 1, 1988.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 88-4555 Filed 3-2-88; 8:45 am]
BILLING CODE 4910-13-M

Life Preservers; Change in Technical Standard Order

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of change to Technical Standard Order (TSO) C13e, Life Preservers.

SUMMARY: By this notice, a change is incorporated into Technical Standard Order (TSO) C13e. This change deletes the requirement in paragraph (d), Previously Approved Equipment, and retains the (d) designation in reserve status. Paragraph (d) states, "Effective April 23, 1988, pursuant to FAR Section 21.621, each TSO authorization, to the extent it authorizes the holder to identify or mark life preservers with TSO-C13a, TSO-C13b, TSO-C13c, or TSO-C13d is withdrawn." This change has no effect on previous or future life preserver design approvals under the TSO system. The purpose of this change is to defer the issue of manufacture and TSO-identification of previously approved life preserver designs so that the issue may be subject to additional public review and comment in context with the forthcoming comprehensive regulatory proposal addressing water survival in general.

FOR FURTHER INFORMATION CONTACT: Ms. Bobbie J. Smith, Technical Analysis Branch, AWS-120, Aircraft Engineering Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267-9546.

SUPPLEMENTARY INFORMATION:

Background

TSO-C13e was issued April 23, 1986, following a period of public comment, as a result of evidence which indicated that improvements in life preserver design were necessary to maintain an adequate level of safety. The primary upgrading incorporated into TSO-C13e concerned life preserver donning and retention features.

Paragraph (d) of TSO-C134e established April 23, 1988, as a cutoff date after which life preserver manufacture an TSO-identification could not continue under the TSO system for previously approved designs which did not have the safety upgrading intended by TSO-C13e. The purpose of this cutoff date was to promote the eventual upgrading of life preservers in the air carrier fleet on an attrition basis by assuring that newly manufactured and TSO-identified replacement articles would be designed to the higher standards of TSO-C13e. The issue of fleet retrofit and upgrading will be addressed in the forthcoming regulatory proposal regarding water survival. Deletion of the requirement in paragraph (d), in effect, allows the continued manufacture and TSO-identification of life preserver models previously approved under TSO-C13d, and extends the opportunity for public comment on this issue to the comment period to be specified in the forthcoming regulatory proposal. The proposal will be published in the **Federal Register.**

Issued in Washington, DC, on February 26, 1988.

Thomas E. McSweeny,

Manager, Aircraft Engineering Division, Office of Airworthiness.

[FR Doc. 88-4554 Filed 3-2-88; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1987 Rev., Supp. No. 13]

Surety Companies Acceptable on Federal Bonds; Termination of Authority, National United Insurance Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to National United Insurance Company, of Miami, Florida, under the United States Code, Title 31, Sections 9304-9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as an acceptable surety on Federal bonds at 52 FR 24619, July 1, 1987.

With respect to any bonds currently in force with National United Insurance Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the company. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond Branch, Washington, DC 20227, telephone (202) 287–3921.

Dated: February 25, 1988.

Mitchell A. Levine,

Assistant Commissioner, Comptroller Financial Management Service.

[FR Doc. 88–4545 Filed 3–2–88; 8:45 am]

BILLING CODE 4810-35-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit "Faces of Swedish Design" (see list),[1] imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. I also determine that the temporary exhibition or display of the listed exhibit objects at the Cranbrook Academy of Art Museum, Bloomfield Hills, Michigan, beginning on or about March 15, 1988 to on or about April 24, 1988, at the Design Gallery Merchandise Mart, Chicago, Illinois, from approximately mid-May through June 1988, at the IBM Gallery, New York, New York, beginning on or about September 26, 1988 to on or about November 27, 1988, at the College of Art and Design, Minneapolis, Minnesota, beginning on or about December 9, 1988 through January 1989, and possibly at the Pacific Design Center, Los Angeles, California, during the month of March 1989, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

March 2, 1988.

C. Normand Poirier,

Acting General Counsel.

[FR Doc. 88–4823 Filed 3–2–88; 11:03 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Ms. Lorie Nierenberg of the Office of the General Counsel, USIA. The telephone number is (202) 485–8827, and the address is Room 700, U.S. Information Agency, 301–4th Street, S.W., Washington, D.C. 20547.

Sunshine Act Meetings

Federal Register
Vol. 53, No. 42
Thursday, March 3, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, March 8, 1988, 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal pesonnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE AND TIME: Thursday, March 10, 1988, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds.
Draft Advisory Opinion 1988-4—Roger C. Wilson on behalf of Merrill Lynch.
Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer Telephone: 202-376-3155.

Marjorie W. Emmons,
Secretary of the Commission.
[FR Doc. 88-4743 Filed 3-1-88; 2:34 pm]
BILLING CODE 6715-01-M

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: Monday, March 7, 1988, 2:30 p.m.

PLACE: 1759 Business Center Drive, Reston, Virginia 22090, Conference Room 605.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Alan Hausman, 1759 Business Center Drive, P.O. Box 4115, Reston,Virginia 22090, (703) 759-8405.

MATTERS TO BE CONSIDERED: .

CLOSED Capitalization Standards for Freddie Mac

Date sent to **Federal Register**: February 29, 1988.

Maud Mater,
Secretary.
[FR Doc. 88-4690 Filed 3-1-88; 8:47 am]
BILLING CODE 6719-01-M

STATE JUSTICE INSTITUTE

TIME AND DATE:

9:00 a.m to 5:00 p.m., March 10, 1988
9:00 a.m to 5:00 p.m., March 11, 1988

PLACE: State Justice Institute, 120 South Fairfax Street, Alexandria, Virginia.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED: Consideration of Applications submitted for Institute funding.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 120 South Fairfax Street, Alexandria, Virginia 22312, (703) 684-6100.

David I. Tevelin,
Executive Director.
[FR Doc. 88-4732 Filed 3-1-88; 1:24 pm]
BILLING CODE 6820-SC-M

RAILROAD RETIREMENT BOARD

PUBLIC MEETING

Notice is hereby given that the Railroad Retirement Board will hold a meeting on March 9, 1988, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois 60611. The agenda for this meeting follows:

(1) Proposed Changes in the RUIA Regulations
(2) Setting of FTEs and Organizational Alignment
(3) Repayment of the RUIA Loan
(4) Work Stoppage—Springfield Terminal Railway Company—November 12, 1987
(5) Report Required under Section 22 of the Railroad Retirement Act
(6) Amendments to Parts 209, 210, and 211 of RRB Regulations Regarding Employer Reporting Requirements
(7) Installation of Movable Shelving in Law Library
(8) Employee Suggestion 9041.

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312-751-4920, FTS No. 386-4920.

Beatrice Ezerski,
Secretary to the Board.

Dated: February 29, 1988.

[FR Doc. 88-4755 Filed 3-2-88; 10:10 am]
BILLING CODE 7905-01-M

Corrections

Federal Register
Vol. 53, No. 42
Thursday, March 3, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1139

[Docket Nos. AO-309-A27 and AO-374-A11]

Milk in the Great Basin and Lake Mead Marketing Areas; Order Amending and Merging Orders

Correction

In rule document 88-3289 beginning on page 4589 in the issue of Wednesday, February 17, 1988, make the following corrections:

§ 1139.5 [Corrected]

1. On page 4591, in the first column, in § 1139.5, in the last line, "areas" should read "area".

§ 1139.30 [Corrected]

2. On page 4594, in the second column, in § 1139.30(b), in the second line, "plan" should read "plant".

§ 1139.40 [Corrected]

3. On page 4595, in the first column, in § 1139.40(c)(5), in the third line, after "skim" insert "milk".

§ 1139.42 [Corrected]

4. On page 4595, in the third column, in § 1139.42(a), in the second line, "and" should read "or".

5. On page 4596, in the second column, in § 1139.42(c)(2), in the fifth line, "transferee's" was misspelled.

6. On the same page, in the same column, in § 1139.42(d)(2)(ii)(*a*), in the second line, after "nonpool" insert "plant from pool".

7. In the same column, in § 1139.42(d)(2)(ii)(*b*), in the first line, after "any" insert "remaining unassigned".

8. In the same column, in § 1139.42(d)(2)(ii)(*c*), in the first and second lines, remove "any remaining unassigned".

§ 1139.50 [Corrected]

9. On page 4599, in the second column, in § 1139.50(e), in the fourth line, "for" should read "the ".

§ 1139.52 [Corrected]

10. On page 4600, in the first column, in § 1139.52(b), in the ninth line, after "thereof" insert "of".

§ 1139.77 [Corrected]

11. On page 4603, in the third column, in § 1139.77, in the fifth line, "money" was misspelled.

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

Editorial Amendment of List of Office Management and Budget Approved Information Collection Requirements

Correction

In rule document 88-3645 appearing on page 5184 in the issue of Monday, February 22, 1988, make the following correction:

§ 0.408 [Corrected]

In the third column, in § 0.408(b), in the table, in the last entry, in the second column, "3060-3070" should read "3060-0370".

BILLING CODE 1505-01-D

FEDERAL ELECTION COMMISSION

11 CFR Parts 102 and 106

[Notice 1988-4]

Allocations Between Federal and Nonfederal Accounts

Correction

In proposed rule document 88-3739 beginning on page 5277 in the issue of Tuesday, February 23, 1988, make the following corrections:

1. On page 5277, in the second column, under **SUPPLEMENTARY INFORMATION**, in the seventh line, "construction" should read "contribution".

2. On page 5278, in the first column, in the second paragraph, in the 17th line, "Re:AOR 1976-7" should read "Re:AOR 1976-72".

3. On the same page, in the second column, in the third complete paragraph, in the first line, "Commenters" was misspelled.

4. On page 5279, in the first column, in the second paragraph, in the 10th line, "not" should read "no".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 332

[Docket No. 87N-0053]

Antiflatulent Drug Products for Over-the-Counter Human Use; Proposed Amendment of Monograph

Correction

In proposed rule document 88-1781 beginning on page 2716 in the issue of Friday, January 29, 1988, make the following correction:

On page 2716, in the second column, in the third complete paragraph, in the 12th line, after "advance" insert "notice".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-050-08-4212-13: A-22677]

La Paz and Mohave Counties, AZ; Realty Action; Land Exchange With Private Party

Correction

In notice document 88-2530 appearing on page 3643 in the issue of Monday, February 8, 1988, make the following correction:

In the first column, under T. 15 N., R.18 W., in the first line, "sec. 13" should read "sec. 31".

BILLING CODE 1505-01-D

federal register

Thursday
March 3, 1988

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of Airport Radar Service Areas; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AWA-26]

Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates Airport Radar Service Areas (ARSA) at Chattanooga Lovell Field, TN, and Huntsville-Madison County Carl T. Jones Field, AL. Each location is an airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of these ARSA's will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at these locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 UTC, April 7, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Gill, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Currently, the FAA has designated 101 ARSA's as published in the **Federal Register** in the implementation of this NAR recommendation.

On October 1, 1987, the FAA proposed to designate ARSA's at Chattanooga Lovell Field, TN; Fresno Air Terminal, CA; Huntsville-Madison County Carl T. Jones Field, AL, and Monterey Peninsula Airport, CA (52 FR 36866). This rule designates ARSA's at two of these airports. Two of the airports, Fresno Air Terminal, CA, and Monterey Peninsula Airport, CA, are withdrawn. Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposal to the FAA. Additionally, the FAA has held informal airspace meetings for each of these proposed airports.

Discussion of Comments

The FAA received fourteen comments on the proposed ARSA's. The comments relating to the airports in this rulemaking are addressed below. One of the commenters was in favor of all locations, and the remaining commenters offered objections to or recommendations on one or all of the sites.

The Soaring Society of America (SSA) submitted a number of objections to the basic ARSA program. Comments objecting to the ARSA program were considered during the rulemaking for the ARSA rule which was published in the **Federal Register** on March 6, 1985 (50 FR 9252). The SSA, objected to all proposals based on their objection to the ARSA program. The SSA specifically recommended that the FAA take whatever action necessary to ensure access to members of local soaring clubs. The Facility Management at both Chattanooga and Huntsville are prepared to negotiate agreements, where necessary, to minimize the impact on local organizations. Throughout the ARSA program, provisions have been made for agreements with organizations adversely impacted by an ARSA establishment. These organizations should contact the local Air Traffic Manager and negotiate a mutually agreeable solution.

The Chattanooga Committee for the Preservation and Improvement of Outdoor Recreation, supported by several individuals and local organizations, submitted a recommended alteration to the proposed Chattanooga ARSA which would eliminate airspace that overlies ultralight launch sites. On the basis of the volume of ultralight activity, the FAA finds it necessary, for safety purposes, to have knowledge of ultralight activities in this proximity to the airport. However, the FAA local facility manager has made an effort to negotiate a Letter of Agreement with the local ultralight groups to minimize the impact on their organizations. The FAA has found that the agreements solve the problems of these types of organizations. For these reasons, the FAA will adopt the proposed ARSA without the recommended modification.

Two commenters suggested that we (1) retain the Chattanooga TRSA, (2) have neither a TRSA nor an ARSA, or (3) in the event that an ARSA is adopted, establish the floor in the 5-10-mile area at 2,500 feet MSL. First, the FAA has concluded that this TRSA meets the criteria recommended by the National Airspace Review for replacement with an ARSA. With respect to the floor of the 5-10-mile area, the ARSA rule made provisions for segmentation of the 5-10-mile area as necessary to provide variations in base altitude to accommodate terrain variance. The proposal is in compliance with that policy. Because the 5-10-mile floor is established above the average terrain in each of the three sectors, there may be isolated points closer to the ARSA floor than the desired 1,200 feet. While the variations in the floor altitude makes the airspace slightly more complex, the FAA believes this is offset by having a base which reflects actual terrain clearance. Therefore, the ARSA floor is adopted as proposed.

Two commenters wrote in support of the ARSA at Huntsville but recommended a cutout of the 5-10-mile area for parachute jumping at Lacy Spring Airport. The FAA studied the recommended alteration and determined that safety considerations do not support the cutout for parachute jumping. In accordance with FAR 105, the pilot of a jump aircraft must establish two-way radio with ATC at least five minutes prior to the jump. The ARSA will impose only one additional requirement—that the jumper must have Air Traffic authorization prior to jumping in the ARSA. As Air Traffic would generally permit a jump unless safety might be derogated, we find no basis for the cutout.

One of the commenters on the Huntsville location also recommended that the floor of the 5-10-mile area should be one altitude. The FAA, after

reviewing the proposal, has decided to alter the floor in the 5–10-mile area. In studying the alternatives we have determined that two floor altitudes are necessary due to the terrain variations; however, the floor altitude of both sectors has been raised and the size of the lower altitude sector has been decreased.

Regulatory Evaluation

Those comments that addressed information presented in the Regulatory Evaluation of the notice have been discussed above. The Regulatory Evaluation discussed in the NPRM, as clarified by the "Discussion of Comments" contained in the preamble to the final rule, constitutes the Regulatory Evaluation of the final rule. Both documents have been placed in the regulatory docket.

Briefly, the FAA finds that a direct comparison of the costs and benefits of this rule is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, especially those associated with simplification and standardization of terminal airspace procedures. Further, the benefits of standardization result collectively from the overall ARSA program, and as discussed previously, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Therefore, it is difficult to specifically attribute these benefits to individual ARSA sites. Finally, until more experience has been gained with ARSA operations, estimates of both the efficiency improvements resulting in time savings to aircraft operators, and the potential delays resulting from mandatory participation, will be quite preliminary.

ATC personnel at some facilities anticipate that the process will go very smoothly, that delays will be minimal, and that efficiency gains will be realized from the start. Other sites anticipate that delay problems will occur in the initial adjustment period.

FAA believes these adjustment problems will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. These overall gains which FAA expects for the ARSA sites established by this rule typify the benefits which FAA expects to achieve nationally from the ARSA program. These benefits are expected to be achieved without additional controller staffing or radar equipment costs to the FAA.

In addition to these operational efficiency improvements, establishment of these ARSA sites will contribute to a reduction in midair collisions. The quantifiable benefits of this safety improvement could range from less than $100 thousand, to as much as $300 million, for each accident prevented.

For these reasons, FAA expects that the ARSA sites established in this rule will produce long term, ongoing benefits which will exceed their costs, which are essentially transitional in nature.

Regulatory Flexibility Determination

Under the terms of the Regulatory Flexibility Act, the FAA has reviewed this rulemaking action to determine what impact it may have on small entities. FAA's Regulatory Flexibility Determination was published in the NPRM. Some of the small entities which could be potentially affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operations and other small aviation businesses located at satellite airports located within 5 miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in radar services and radio communication with ATC is voluntary, operations at airports inside the core might be altered, and some business could be lost to airports outside of the ARSA core. Because FAA is excluding some satellite airports located within the 5-mile ring to avoid adversely impacting their operations, and in other cases will achieve the same purposes through Letters of Agreement between ATC and the affected airports establishing special procedures for operating to and from these airports, FAA expects to eliminate virtually any adverse impact on the operations of small satellite airports which potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures which will accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities.

The Rule

This action designates an ARSA at Chattanooga Lovell Field, TN, and at Huntsville-Madison County Carl T. Jones Field, AL. Each location designated is an airport at which a nonregulatory TRSA is currently in effect. Establishment of these ARSA's will require that pilots maintain two-way radio communication with ATC while in the ARSA. Implementation of ARSA procedures at these locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.501 [Amended]

2. Section 71.501 is amended as follows:

Chattanooga Lovell Field, TN [New]

That airspace within a 5-mile radius of Lovell Field (lat. 35°02'07" N., long. 85°12'15" W.), extending upward from the surface to and including 4,700 feet MSL; and that airspace within a 10-mile radius of the airport from the 350° bearing from the airport clockwise to the 058° bearing from the airport extending upward from 2,200 feet MSL to and including 4,700 feet MSL; and that airspace within a 10-mile radius of the airport from the 058° bearing from the airport clockwise to the 234° bearing from the airport extending upward from 2,600 feet MSL to and including 4,700 feet MSL; and that airspace within a 10-mile radius of the airport from the 234° bearing from the airport clockwise to the 350° bearing from the airport extending upward from 3,300 feet MSL to and including 4,700 feet MSL.

Huntsville-Madison County Carl T. Jones Field, AL [New]

That airspace within a 5-mile radius of the Huntsville-Madison County Carl T. Jones Field (lat. 34°38'28" N., long. 86°46'26" W.) extending upward from the surface to and including 4,600 feet MSL, excluding that airspace within a 1-mile radius of the Redstone Army Air Field (lat. 34°40'42" N., long. 86°41'00" W.); and that airspace within a 10-mile radius of the airport from the 015° bearing from the airport clockwise to the 145° bearing from the airport extending upward from 2,400 feet MSL to and including 4,600 feet MSL; and that airspace within a 10-mile radius of the airport from the 145° bearing from the airport clockwise to the 015° bearing from the airport extending upward from 2,000 feet MSL to and including 4,600 feet MSL. All airspace contained within Restricted Areas R-2104A, R-2104B, and R-2104C is excluded from this ARSA when they are active.

Issued in Washington, DC, on February 26, 1988.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 88-4546 Filed 3-2-88; 8:45 am]

BILLING CODE 4910-13-M

Federal Register

Thursday
March 3, 1988

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N-88-1770; FR-2442]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas.

SUMMARY: This Notice is the annual complete listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act, and each such area's applicable limits. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices, and notice of the Secretary's determination is published in the **Federal Register**.

EFFECTIVE DATE: March 3, 1988.

FURTHER INFORMATION CONTACT: For single family: Morris Carter, Director, Single Family Development Division, Room 9270; telephone (202) 755-6700. For manufactured homes: Robert J. Coyle, Director, Title I Insurance Division, Room 9160, telephone (202) 755-6880, 451 Seventh Street SW., Washington, DC 20410. (Telephones are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) (12 U.S.C. 1701-1749) authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and combination manufactured homes and lots. The NHA, as amended by the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, sections 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam and Hawaii.

On May 22, 1984, the Department published a revised list of areas eligible for "high-cost" mortgage limits, which contained several new features. (See 49 FR 21520). First, there was no separate listing for condominium units, since these limits are now the same as those for other one-family residences. Second, the listing included instructions on how to compute the high-cost limits for combination manufactured homes and lots and individual lots, and specified the special high-cost amounts for manufactured homes and lots and individual lots insured in Alaska, Guam and Hawaii. And third, changes were made to the list based on a new definition of "Metropolitan area".

The last comprehensive list of high-cost areas was published on October 1, 1986. (See 51 FR 34961). Since then a number of areas have had increases to their mortgage limits published in the **Federal Register**. In addition, because of new legislation, discussed below, HUD in this Notice is adding a number of new high-cost areas and increasing the limits in some other areas previously listed.

The President recently approved the Housing and Community Development Act of 1987, Pub. L. 100-242, approved February 5, 1988 (1987 Act). Among other things, the 1987 Act increases the mortgage limit ceiling for high-cost areas from 133⅓ percent to 150 percent of the basic mortgage limits stated in the National Housing Act. This amounts to an increase in the ceiling as follows:

Units	Ceiling
1, and condominium unit	$101,250
2	114,000
3	138,000
4	160,500

For Alaska, Hawaii and Guam the ceiling for one- to four-family properties can be raised by an additional one-half of the amounts under "Ceiling" above. For these three areas, the ceilings are as follows:

Units	Ceiling
1, and condominium unit	$151,875
2	171,000
3	207,000
4	240,750

The 1987 Act also defines the term "area," as it pertains to high-cost areas, to mean Metropolitan Statistical Area (MSA) as defined by the Office of Management and Budget, or county, whichever results in the higher mortgage limit.

It has been HUD's recent practice to increase mortgage limits only in response to appeals developed and supported by sales price data in accordance with 24 CFR 203.18b. In order to better respond to the expectations generated by the 1987 Act, the Department developed a revised listing of high-cost areas using data currently available to it. This revised listing, therefore, includes (1) additions of new high-cost areas, (2) increases in the mortgage limits for areas already listed and (3) areas previously listed with unchanged mortgage limits. This Notice effects the mortgage limit increases in the first two categories and merely restates and consolidates these with the areas of the third category. The data employed by HUD in effecting the mortgage limit increases contained in this listing of high-cost areas was for the most part organized by MSA. Therefore, most of the increases effected by this notice are for MSAs.

HUD will amend its regulations to permit the increase to 150 percent of the basic mortgage limit in high-cost areas. However, until the regulations are amended, HUD is using its authority to waive the regulatory requirements not required by statute in individual cases. The current regulations, which limit the increase to 133⅓ percent, have been waived in each case, or area, identified below having a mortgage limit over the old 133⅓ percent ceiling. HUD determined that such increases were justified by the data available to HUD, that to delay these increases would unfairly deny full availability of HUD's FHA programs in the affected areas and that promptly increasing the limits would be consistent with the intent of Congress.

This Document

In this document, the Department publishes its entire list of high-cost areas with applicable mortgage limits. This document incorporates the updates published since October 1, 1986. In some cases this document further increases the limits to areas previously published in the October 1, 1986, listing or subsequent updates.

In addition, this document adds to the list the following new high-cost areas, with applicable limits: Lewiston-Auburn, Maine MSA; Washington County, Franklin County, and Grand Isle County, Vermont; Strafford County, New Hampshire; Hampshire County, Massachusetts; St. Thomas, Virgin Islands; Binghamton, New York MSA; Syracuse, New York MSA; Rochester, New York MSA; Gloucester County, New Jersey; Lancaster, Pennsylvania

MSA; Philadelphia County, Pennsylvania; Reading, Pennsylvania MSA; Scranton-Wilkes-Barre, Pennsylvania MSA; Pittsburgh, Pennsylvania, MSA; Prince George County, Virginia; Roanoke, Virginia MSA; Frederick County, Virginia; Charleston, West Virginia MSA; Macon-Warner Robins, Georgia MSA; Savannah, Georgia MSA; Anniston, Alabama MSA; Florence, Alabama MSA; Tuscaloosa, Alabama MSA; Fayetteville, North Carolina MSA; Craven County, Davidson County, Davie County, Forsyth County, Randolph County, Stokes County, and Yadkin County North Carolina; Bourbon County; Clark County; Jessamine County; Scott County; and Woodford County, Kentucky; Melbourne-Titusville-Palm Bay, Florida MSA; Gainesville Florida MSA; Tallahassee, Florida MSA; Lakeland-Winter Haven, Florida MSA; Bloomington-Normal, Illinois MSA; Appleton-Oskosh-Neena, Wisconsin MSA; Gary-Hammond, Indiana PMSA; Boone County, Hancock County, Shelby County, and Morgan County, Indiana; Lima, Ohio MSA; Abilene, Texas MSA; Longview-Marshall, Texas MSA; Tyler, Texas MSA; Waco, Texas MSA; Beaumont-Port Arthur, Texas MSA; Lake Charles, Louisiana MSA; Alexandria, Louisiana MSA; Longview-Marshall, Texas MSA; Dubuque, Iowa MSA; Waterloo-Cedar Falls, Iowa, MSA; Fort Collins-Loveland County, Colorado MSA; Olympia, Washington MSA.

These high-cost limits are effective (date of publication) and supersede other published amounts in effect, to the extent they are inconsistent with figures appearing in this document.

The listing of high-cost areas appears in two parts: Part I explains high-cost limits for mortgages insured under Title I of the National Housing Act. Part II lists each high-cost area, with applicable limits for single family residences (including condominiums) insured under sections 203(b), 234(c) and 214 of the National Housing Act.

List of Subjects

24 CFR Part 201

Fire prevention, Health facilities, Historic preservation, Home improvement, Loan programs-housing and community development, Manufactured homes, Reporting and recordkeeping requirements.

24 CFR 203

Home improvement, Loan programs-housing and community development, Mortgage Insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR 234

Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, the Department publishes the revised dollar limitations as follows:

National Housing Act High-cost Mortgage Limits

I. Title I: Method of Computing Limits

A. Section 2(b)(1)(D), Combination manufactured home and lot (excluding Alaska, Guam, and Hawaii: To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II of this list by .80. For example, the first entry, Cumberland County, ME, has a one-family limit of $81,600. The combination home and lot loan limit for Cumberland County is $81,600 × .80 or $65,200.

B. Section 2(b)(1)(E), Lot only (excluding Alaska, Guam, and Hawaii): To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one family" column of Part II of this list by .20. For example, the first entry, Cumberland County, ME, has a one-family limit of $81,600. The lot loan limit for Cumberland County is $81,600 × .20, or $16,300.

C. Section 2(b)(2), Alaska, Guam, and Hawaii limits: The maximum dollar limits of Alaska, Guam, and Hawaii may be 140 percent of the statutory loan limits set out in section 2(b)(1).

Accordingly, the dollar limits for Alaska, Guam and Hawaii are as follows:

1. For manufactured homes: $56,700 ($40,000 × 140 percent).

2. For combination manufactured homes and lots: $75,600 ($54,000 × 140 percent).

3. For lots only: $18,900 ($13,500 × 140 percent).

Dated: February 19, 1988.

James E. Schoenberger,

General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

II. Title II.—Updating of FHA Sections 203(b), 234(c) and 214 Area Wide Mortgage Limits

Market area designation and local jurisdictions	Mortgage Limits			
	1-family and condominium unit	2-family	3-family	4-family
REGION I				
HUD Field Office: Bangor Office				
Portland, ME MSA Cumberland County	$81,600	$91,900	$111,670	$128,850
Lewiston-Auburn, ME MSA Androscoggin County	101,250	114,000	138,000	159,500
Portsmouth-Dover-Rochester, NH-ME MSA York Co., ME	101,250	114,000	138,000	160,500
HUD Field Office: Burlington Office				
Washington County	90,000	101,300	122,650	142,650
Rutland County	85,000	95,750	116,350	134,250
Burlington, VT MSA:				
Franklin County	81,700	92,000	111,800	129,000
Grand Isle County	81,700	92,000	111,800	129,000
Chittenden County	90,000	101,300	122,650	142,650
HUD Field Office: Manchester Office				
Hillsborough County	101,250	114,000	138,000	160,500
Portsmonth-Dover-Rochester, NH-ME MSA Rockingham County	101,250	114,000	138,000	160,500
Stafford County	101,250	114,000	138,000	160,500
Cheshire County	81,700	92,000	111,800	129,000

Market area designation and local jurisdictions	Mortgage Limits			
	1-family and condominium unit	2-family	3-family	4-family
REGION I				
HUD Field Office: Hartford Office				
State of Connecticut	101,250	114,000	138,000	160,500
HUD Field Office: Boston Office				
Bristol County	101,250	114,000	138,000	160,500
Essex County				
Middlesex County				
Norfolk County				
Plymouth County				
Suffolk County				
Worchester County				
Barnstable County	87,400	98,400	138,000	160,500
Berkshire County	101,250	114,000	117,000	135,000
Springfield, MA MSA:				
Hampden County	101,250	114,000	138,000	160,500
Hampshire County				
HUD Field Office: Providence Office				
Providence, RI PMSA:				
Bristol County	86,950	97,900	118,950	137,250
Kent County				
Providence County				
Washington County				
Newport County				
REGION II				
HUD Field Office: Caribbean Office				
San Juan, PR PMSA:				
Barceloneta Municipio	93,050	104,800	127,300	146,900
Bayamon Municipio				
Canovanas Municipio				
Carolina Municipio				
Catano Municipio				
Corozal Municipio				
Dorado Municipio				
Fajardo Municipio				
Florida Municipio				
Guaynabo Municipio				
Humacao Municipio				
Juncos Municipio				
Las Piedras Municipio				
Loiza Municipio				
Luquillo Municipio				
Manati Municipio				
Naranjito Municipio				
Rio Grande Municipio				
San Juan Municipio				
Toa Alta Municipio				
Toa Baja Municipio				
Trujillo Alto Municipio				
Vega Alta Municipio				
Vega Baja Municipio				
Caguas, PR PMSA:				
Aguas Buenas Municipio	93,050	104,800	127,300	146,900
Caguas Municipio				
Cayey Municipio				
Cidra Municipio				
Gurabo Municipio				
San Lorenzo Municipio				
Mayaguez, PR MSA:				
Anasco Municipio	79,650	89,700	109,000	125,800
Cabo Rojo Municipio				
Hormigueros Municipio				
Mayaguez Municipio				
San German Municipio				
Ponce, PR MSA:				
Juana Diaz Municipio	81,700	92,300	111,800	129,000
Ponce Municipio				
Virgin Islands: St. Thomas	90,000	101,300	122,650	142,650
HUD Field Office: Albany Office				
Binghamton, NY MSA:				
Broome County	73,150	82,350	100,100	115,500
Tioga County				
Syracuse, NY MSA:				
Madison County	69,500	78,250	95,100	109,700
Onondago County	84,350	95,000	115,400	133,200
Oswego County	69,500	78,250	95,100	109,700

Market area designation and local jurisdictions	Mortgage Limits			
	1-family and condominium unit	2-family	3-family	4-family
Other Areas:				
Albany County	90,000	101,300	122,650	142,650
Saratoga County				
Schenectady County				
Dutchess County	90,000	101,300	122,650	142,650
Ulster County				
Warren County	101,250	114,000	138,000	160,500
HUD Field Office: New York Office				
New York, NY PMSA:				
Bronx County	101,250	114,000	138,000	160,500
Kings County				
New York County				
Putnam County				
Queens County				
Richmond County				
Rockland County				
Westchester County				
Nassau-Suffolk, NY PMSA:				
Nassau County	101,250	114,000	138,000	160,500
Suffolk County				
Orange County, NY PMSA: Orange County	101,250	114,000	138,000	160,500
HUD Field Office: Newark Office				
Bergen-Passaic, NJ PMSA:				
Bergen County	101,250	114,000	138,000	160,500
Passaic County				
Jersey City, NJ PMSA: Hudson County	101,250	114,000	138,000	160,500
Middlesex-Somerset-Hunterdon, NJ PMSA:				
Hunterdon County	101,250	114,000	138,000	160,500
Middlesex County				
Somerset County				
Monmouth-Ocean, NJ PMSA:				
Monmouth County	101,250	114,000	138,000	160,500
Ocean County				
Newark, NJ PMSA:				
Essex County	101,250	114,000	138,000	160,500
Morris County				
Sussex County				
Union County				
Allentown-Bethlehem, PA-NJ MSA: Warren County, NJ	88,900	100,100	121,650	140,350
HUD Field Office: Camden Office				
Atlantic City, NJ MSA:				
Atlantic County	93,100	104,850	127,400	147,000
Cape May County				
Monmouth-Ocean, NJ PMSA: Ocean County	101,250	114,000	138,000	160,500
Trenton, NJ PMSA: Mercer County	95,950	108,050	131,300	151,500
Wilmington, DE-NJ-MD PMSA:				
Salem County, NJ	78,850	88,800	107,900	124,500
Philadelphia, PA-NJ PMSA:				
Burlington County, NJ	90,350	101,750	123,600	142,650
Camden County, NJ				
Gloucester County, NJ				
HUD Field Office: Buffalo Office				
Rochester, NY MSA:				
Monroe County	90,000	101,300	122,650	142,650
Livingston County				
Ontario County				
Orleans County				
Wayne County				
REGION III				
HUD Field Office: Philadelphia Office				
Allentown/Bethleham, PA MSA:				
Carbon County	88,900	100,100	121,650	140,350
Lehigh County				
Northhampton County				
Lancaster County	76,000	85,600	104,000	120,000
Philadelphia, PA-NJ PMSA:				
Bucks County, PA	90,350	101,750	123,600	142,650
Chester County, PA				
Delaware County, PA				
Montgomery County, PA				
Philadelphia County, PA				
Reading, PA MSA: Berks County	70,750	79,650	96,800	111,700
Scranton-Wilkes-Barre, PA MSA:				
Columbia County	74,550	83,950	102,000	117,700

Market area designation and local jurisdictions	Mortgage Limits			
	1-family and condominium unit	2-family	3-family	4-family
Lackawanna County				
Luzerne County				
Monroe County				
Wyoming County				
HUD Field Office: Baltimore Office				
Washington, DC-MD-VA MSA:				
Charles County, MD	101,250	114,000	138,000	160,500
Calvert County, MD				
Frederick County, MD				
Baltimore, MD MSA (part):				
Howard County	101,250	114,000	138,000	160,500
Anne Arundel County				
Baltimore, MD MSA (part):				
Baltimore City, MD	87,850	98,950	120,250	138,750
Baltimore County				
Carroll County				
Harford County				
Queen Anne's County				
Wilmington, DE-NJ-MD PMSA: Cecil County, MD	78,850	88,800	107,900	124,500
Other Areas:				
Worcester County, MD	71,250	80,250	97,500	112,500
St. Mary's County, MD	81,900	87,600	106,450	122,850
Talbot County	101,250	114,000	138,000	160,500
HUD Field Office: Washington, DC Office				
Washington, DC-MD-VA MSA:				
District of Columbia	101,250	114,000	138,550	159,850
Montgomery County, MD				
Prince Georges County, MD				
Alexandria City, VA				
Arlington County, VA				
Fairfax County, VA				
Falls Church, VA				
Loudoun County, VA				
Manassas City, VA				
Manassas Park City, VA				
Prince William County, VA				
HUD Field Office: Wilmington Office				
Wilmington, DE-NJ-MD PMSA: New Castle County, DE	85,500	96,300	117,000	135,000
HUD Field Office: Pittsburgh Office				
Pittsburgh, PA PMSA:				
Allegheny County	70,300	79,150	96,200	111,000
Fayette County				
Washington County				
Westmoreland County				
HUD Field Office: Richmond Office				
Washington, DC-MD-VA MSA: Stafford County, VA	101,250	114,000	138,000	160,500
Richmond-Petersburg, VA MSA:				
Charles City County	86,900	97,850	118,900	137,200
Chesterfield County				
Colonial Heights City				
Dinwiddie County				
Goochland County				
Hanover County				
Henrico County				
Hopewell City				
New Kent County				
Petersburg City				
Powhatan County				
Prince George County				
Richmond City				
Norfolk-VA Beach-Newport News, VA MSA:				
Chesapeake City	90,900	102,350	124,350	143,500
Gloucester County				
Hampton City				
James City County				
Newport News City				
Norfolk City				
Poquoson City				
Portsmouth City				
Suffolk City				
Virginia Beach City				
Williamsburg City				
Roanoke, VA MSA:				
Botetourt County	76,900	86,600	105,200	121,400

Market area designation and local jurisdictions	Mortgage Limits			
	1-family and condominium unit	2-family	3-family	4-family
Roanoke County				
Roanoke City				
Salem City				
State of Virginia:				
York County	101,250	114,000	138,000	160,500
Fauquier County	99,300	111,800	135,800	156,700
Albemarle County/Charlottesville City	76,650	86,300	104,900	121,050
Spotsylvania County/Fredericksburg City	74,100	83,450	101,400	117,000
Isle of Wight County	78,350	88,250	107,250	123,750
Frederick County	70,500	79,400	96,450	111,300
All Other Areas	68,300	76,900	93,500	107,900
HUD Field Office: Charleston Office				
Charleston, WV MSA	79,800	89,850	109,200	126,000
Kanawha County				
Putnam County				
REGION IV				
HUD Field Office: Columbia Office				
Charleston-SC MSA:				
Berkeley County	85,500	96,300	117,000	135,000
Charleston County				
Dorchester County				
Greenville-Spartanburg, SC MSA:				
Greenville County	72,900	82,100	99,700	115,100
Pickens County				
Spartanburg County				
Horry County	73,600	82,900	100,750	116,250
Charlotte-Gastonia-Rock Hill, NC-SC MSA (part): York County, SC	82,000	92,350	112,200	129,450
Augusta, GA-SC MSA: Aiken County,SC	82,550	92,950	112,950	130,300
Columbia, SC MSA:				
Lexington County	88,350	99,500	120,900	139,500
Richland County				
HUD Field Office: Atlanta Office				
Atlanta, GA MSA:				
Barrow County	92,400	104,050	126,400	145,850
Butts County				
Cherokee County				
Clayton County				
Cobb County				
Coweta County				
DeKalb County				
Douglas County				
Fayette County				
Forsyth County				
Fulton County				
Gwinnett County				
Henry County				
Newton County				
Paulding County				
Rockdale County				
Spalding County				
Walton County				
Augusta, GA-SC MSA:				
Columbia County, GA	82,550	92,950	112,950	130,300
Richmond County, GA				
McDuffie County, GA				
Macon-Warner Robins, GA MSA:				
Bibb County	75,400	84,900	103,150	119,050
Houston, County				
Jones County				
Peach County				
Savannah, GA MSA:				
Chatham County	70,300	79,150	96,200	111,000
Effingham County				
HUD Field Office: Birmingham Office				
Mobile, AL MSA:				
Baldwin County	80,750	90,950	110,500	127,500
Mobile County				
Montgomery, AL MSA:				
Autauga County	75,000	84,000	102,500	118,000
Elmore County				
Montgomery County				
Birmingham, AL MSA:				
Blount County	74,200	83,550	101,500	117,150

Market area designation and local jurisdictions	Mortgage Limits			
	1-family and condominium unit	2-family	3-family	4-family
Jefferson County				
St. Clair County				
Shelby County	80,000	90,700	110,200	127,200
Walker County	69,550	78,300	95,150	109,800
Huntsville, AL MSA: Madison County	78,600	88,500	107,550	124,100
Anniston, AL MSA: Chatham County	76,000	85,600	104,000	120,000
Florence, AL MSA: Colbert County	68,450	77,050	93,650	108,050
Tuscaloosa, AL MSA: Tuscaloosa County	76,750	86,400	105,000	121,150
HUD Field Office: Greensboro Office				
Raleigh-Durham, NC MSA:				
Durham County	101,250	114,000	138,550	159,850
Franklin County				
Orange County				
Charlotte-Gastonia-Rock Hill, NC-SC MSA (part):				
Cabarrus County	82,000	92,350	112,200	129,450
Gaston County				
Lincoln County				
Mecklenburg County	85,000	95,750	116,350	134,250
Rowan County	82,000	92,350	112,200	129,450
Union County				
Wilmington, NC MSA: New Hanover County	79,600	89,650	108,900	125,650
Other Areas:				
Currituck County	76,500	86,000	104,500	120,500
Johnson County	71,250	80,250	97,500	112,500
Craven County	81,350	91,600	111,300	128,400
Fayetteville, NC MSA: Cumberland County	72,050	81,150	98,550	113,750
Greensboro—Winston-Salem—High Point, NC MSA:				
Davidson County	80,900	91,100	110,700	127,700
HUD Field Office: Jackson Office				
Jackson, MS MSA:				
Hinds County	86,450	97,350	118,300	136,500
Madison County				
Rankin County				
Pascagoula, MS MSA: Jackson County	77,400	87,200	106,000	122,200
Biloxi-Gulfport, MS MSA:				
Hancock County	79,100	89,100	108,200	124,900
Harrison County				
Warren County	80,000	90,100	109,450	126,300
Oktibbeha County	73,300	82,600	100,350	115,800
Memphis, TN-AR-MS MSA: Desoto County, MS	87,750	98,850	120,100	138,600
Other Areas: Lowndes County	70,200	79,100	96,100	110,900
HUD Field Office: Coral Gables Office				
Ft. Lauderdale-Hollywood-Pompano Beach, FL PMSA: Broward County	87,400	98,400	119,600	138,000
Miami-Hialeah, FL PMSA: Dade County	81,800	92,100	111,900	129,100
West Palm Beach-Boca Raton-Delray Beach, FL MSA: Palm Beach County	80,750	90,950	110,500	127,500
Ft. Pierce, FL MSA: Martin County	76,000	85,600	104,000	120,000
Other Areas:				
Collier County	76,000	85,600	104,000	120,000
Monroe County	80,750	90,950	110,500	127,500
Fort Myers, FL MSA: Lee County	72,350	81,450	99,000	114,200
HUD Field Office: Knoxville Office				
Knoxville, TN MSA:				
Anderson County	75,900	85,450	103,850	119,600
Blount County				
Grainger County				
Knox County				
Jefferson County				
Sevier County				
Union County				
HUD Field Office: Memphis Office				
Memphis, TN-AR-MS MSA:				
Shelby County, TN	87,750	98,850	120,100	138,600
Tipton County, TN				
HUD Field Office: Nashville Office				
Nashville, TN MSA:				
Cheatham County	100,200	112,850	137,150	158,250

Market area designation and local jurisdictions	Mortgage Limits			
	1-family and condominium unit	2-family	3-family	4-family
Davidson County				
Dickson County				
Robertson County				
Rutherford County				
Sumner County				
Williamson County				
Wilson County				
HUD Field Office: Louisville Office				
Cincinnati, OH-KY-IN PMSA:				
Boone County, KY	80,750	90,950	110,500	127,500
Campbell County, KY				
Kenton County, KY				
Lexington-Fayette, KY MSA:				
Bourbon County	85,500	96,300	117,000	135,000
Clark County				
Jessamine County				
Scott County				
Woodford County				
Fayette County	93,500	105,300	127,900	147,600
Other Areas: Jefferson County	75,050	84,500	102,700	118,500
HUD Field Office: Orlando Office				
Orlando, FL MSA:				
Orange County	72,800	82,000	99,600	114,950
Osceloa County				
Seminole County	78,850	88,800	107,900	124,500
Melbourne—Titusville-Palm Bay, FL MSA: Brevard County	77,900	87,700	106,600	123,000
HUD Field Office: Jacksonville Office				
Jacksonville, FL MSA:				
Clay County	74,350	83,700	101,800	117,450
Duval County				
Nassau County				
St. Johns County				
Gainesville, FL MSA:				
Alachua County	71,250	80,250	97,500	112,500
Bradford County				
Tallahassee, FL MSA:				
Gadsden County	79,800	89,850	109,200	126,000
Leon County				
HUD Field Office: Tampa Office				
Sarasota, FL MSA: Sarasota County	77,550	85,050	103,350	119,250
Tampa-St. Petersburg-Clearwater, FL MSA:				
Hernando County	79,300	89,300	108,550	125,250
Hillsborough County				
Pasco County				
Pinellas County				
Brandenton, FL MSA: Manatee County	75,450	84,950	103,200	119,100
Lakeland-Winter Haven, FL MSA: Polk County	76,450	86,100	104,600	120,700
REGION V				
HUD Field Office: Chicago Office				
Chicago, IL PMSA:				
Cook County	91,250	102,750	124,850	144,050
DuPage County				
McHenry County				
Lake County, IL PMSA: Lake County	101,250	114,000	138,000	160,500
Joliet, IL PMSA:				
Grundy County	87,250	98,250	119,350	137,750
Will County				
Aurora-Elgin, IL PMSA:				
Kane County	87,250	98,250	119,350	137,750
Kendall County				
HUD Field Office: Detroit Office				
Detroit, MI PMSA:				
Lapeer County	75,300	84,800	103,000	118,900
Livingston County				
Macomb County				
Monroe County				
Oakland County				
St. Clair County				
Wayne County				
Ann Arbor, MI PMSA: Washtenaw County	99,200	100,450	122,050	140,800
HUD Field Office: Cleveland Office				
Cleveland, OH PMSA:				
Cuyahoga County	75,400	84,900	103,100	119,000

Market area designation and local jurisdictions	Mortgage Limits			
	1-family and condominium unit	2-family	3-family	4-family
Geauga County				
Lake County				
Medina County				
HUD Field Office: Springfield Office				
Bloomington-Normal, IL MSA: McLean County	78,400	88,300	107,250	123,750
Champaign-Urbana, IL MSA: Champaign County	70,300	79,150	96,200	111,000
St. Louis, MO–IL MSA:				
Monroe County	85,500	96,300	117,000	135,000
Jersey County				
Madison County				
Clinton County				
St. Clair County				
HUD Field Office: Minneapolis-St. Paul Office				
Minneapolis-St. Paul, MN MSA:				
Anoka County	101,250	114,000	138,000	160,500
Carver County				
Chisago County				
Dakota County				
Hennepin County				
Isanti County				
Ramsey County				
Scott County				
Washington County				
Wright County				
St. Cloud, MN MSA:				
Benton County	75,900	85,450	103,850	119,850
Sherburn County				
Stearns County				
Fargo-Moorhead, ND–MN MSA: Clay County, MN	77,900	87,750	106,600	123,000
Rochester, MN MSA: Olmstead County	93,400	105,150	127,750	147,450
HUD Field Office: Milwaukee Office				
Minneapolis-St. Paul, MN-WI MSA: (part) St. Croix County, WI	101,250	114,000	138,000	160,500
Milwaukee, WI PMSA:				
Milwaukee County	77,800	87,600	106,450	122,850
Ozaukee County				
Washington County				
Waukesha County				
Madison, WI MSA: Dane County	83,800	94,350	114,650	132,300
Appleton-Oshkosh-Neenah, WI MSA:				
Calument County	69,350	78,100	94,900	109,500
Outagamie County				
Winnebago County				
HUD Field Office: Indianapolis Office				
Cincinnati, OH-KY-IN PMSA: Dearborn County, In	80,750	90,950	110,550	127,500
Gary-Hammond, IN PMSA:				
Lake County	70,600	79,500	96,600	111,450
Porter County				
South Bend—Mishawaka IN: St. Joseph County	74,600	84,000	102,050	117,750
Indianapolis, IN MSA:				
Boone County	72,400	81,500	99,050	114,300
Hancock County				
Shelby County				
Morgan County				
Hendricks County	80,750	90,950	110,500	127,500
Johnson County	80,750	90,950	110,500	127,500
Marion County	80,750	90,950	110,500	127,500
Hamilton County	80,750	90,950	110,500	127,500
Bloomington, IN MSA: Monroe County	71,800	80,850	98,250	113,350
HUD Field Office: Columbus Office				
Columbus, OH MSA:				
Delaware County	81,100	91,400	111,000	128,100
Fairfield County				
Franklin County				
Licking County				
Madison County				
Pickaway County				
Union County				
Lima, OH MSA:				
Allen County	70,400	79,250	96,300	111,150
Auglaize County				
HUD Field Office: Cincinnati Office				
Cincinnati, OH-KY-IN PMSA (part):				
Clermont County, OH	80,750	90,950	110,500	127,500
Hamilton County, OH				

Market area designation and local jurisdictions	Mortgage Limits			
	1-family and condominium unit	2-family	3-family	4-family
Warren County, OH				
Hamilton-Middletown, OH PMSA: Butler County	80,750	90,950	110,500	127,500
REGION VI				
HUD Field Office: Dallas Office				
Dallas, TX PMSA:				
Collin County	92,300	103,950	126,300	145,750
Dallas County				
Denton County				
Ellis County				
Kaufman County				
Rockwall County				
Sherman-Denison, TX MSA: Grayson County	78,000	88,000	106,500	124,00
HUD Field Office: Fort Worth Office				
Ft. Worth-Arlington, TX PMSA:				
Johnson County	90,000	101,300	122,650	142,650
Parker County				
Tarrant County				
Hood County	73,600	82,900	100,750	116,250
Abilene, TX MSA: Taylor County	74,200	83,550	101,500	117,150
Longview-Marshall, TX MSA: Gregg County	71,150	80,100	97,350	112,300
Tyler, TX MSA: Smith County	77,400	87,150	105,900	122,220
Waco, TX MSA: McLennan County	71,250	80,250	97,500	112,500
HUD Field Office: Houston Office				
Houston, TX PMSA:				
Ft. Bend County	90,000	101,300	122,650	142,650
Harris County				
Liberty County				
Montgomery County				
Waller County				
Beaumont-Port Arthur, TX MSA:				
Hardin County	71,250	80,250	97,500	112,500
Jefferson County				
Orange County				
Galveston-Texas City, TX PMSA: Galveston County	90,000	101,300	122,650	142,650
Other Areas:				
Brazoria County	90,000	101,300	122,650	142,650
Angelina County	68,400	77,000	93,600	108,000
HUD Field Office: Lubbock Office				
Amarillo, TX MSA:				
Potter County	74,200	83,550	101,500	117,150
Randall County				
Lubbock, TX MSA: Lubbock County	82,650	93,050	113,100	130,500
Midland, TX MSA: Midland County	70,000	78,500	95,500	110,500
HUD Field Office: San Antonio Office				
Austin, TX MSA:				
Hays County	90,000	101,300	122,650	142,650
Travis County				
Williamson County				
San Antonio, TX MSA:				
Bexar County	82,750	93,250	113,250	130,700
Comal County				
Guadalupe County				
Corpus Christi, TX MSA:				
Nueces County	70,750	79,650	96,800	111,700
San Patricio County				
Other Areas: Kendall County	79,500	80,050	103,350	119,250
HUD Field Office: Little Rock Office				
Memphis, TN-AR-MS MSA: Crittenden County, AR	87,750	98,850	120,100	138,600
Little Rock, AR MSA:				
Faulkner County	86,200	97,050	117,950	136,100
Lonoke County				
Pulaski County				
Saline County				
HUD Field Office: Oklahoma City Office				
Oklahoma City, OK MSA:				
Canadian County	72,800	82,000	99,600	114,950

Market area designation and local jurisdictions	Mortgage Limits			
	1-family and condominium unit	2-family	3-family	4-family
Cleveland County				
Logan County				
McClain County				
Oklahoma County				
Pottawatomie County				
HUD Field Office: New Orleans Office				
Baton Rouge, LA MSA:				
Ascension Parish	76,000	85,600	104,000	120,000
East Baton Rouge Parish				
Livingston Parish				
West Baton Rouge Parish				
New Orleans, LA MSA:				
Jefferson Parish	96,500	108,650	132,050	152,350
Orleans Parish				
St. Bernard Parish				
St. Charles Parish				
St. John the Baptist Parish				
St. Tammany Parish				
Lake Charles, LA MSA: Calcasieu Parish	73,650	82,950	100,750	116,250
Other Areas: Lafayette Parish	76,000	85,600	104,000	120,000
HUD Field Office: Shreveport Office				
Shreveport, LA MSA:				
Bossier Parish	83,800	94,400	114,700	132,350
Caddo Parish				
Alexandria, LA MSA: Rapides Parish	76,900	86,600	105,200	121,400
Longview-Marshall, TX MSA: Harrison County, TX	71,150	80,100	97,350	112,300
HUD Field Office: Albuquerque Office				
Albuquerque, NM MSA: Bernalillo County	90,000	101,300	122,650	142,650
Other Areas:				
Santa Fe County	95,000	107,000	130,000	150,000
Los Alamos County	98,300	110,700	134,550	155,250
HUD Field Office: Tulsa Office				
Tulsa, OK MSA:				
Creek County	82,500	92,900	112,900	130,300
Osage County				
Rogers County				
Tulsa County				
Wagoner County				
REGION VII				
HUD Field Office: Kansas City Office				
Kansas City, MO PMSA:				
Cass County, MO	81,600	91,900	111,700	128,900
Clay County, MO				
Jackson County, MO				
Lafayette County, MO				
Platt County, MO				
Ray County, MO				
Kansas City, KS PMSA:				
Johnson County, KS	81,600	91,900	111,700	128,900
Leavenworth County, KS				
Miami County, KS				
Wyandotte County, KS				
HUD Field Office: St. Louis Office				
St. Louis, MO-IL PMSA: (part)				
St. Louis City, MO	85,500	96,300	117,000	135,000
Franklin County, MO				
Jefferson County, MO				
St. Charles County, MO				
St. Louis County, MO				
HUD Field Office: Des Moines Office				
Des Moines, IA MSA:				
Dallas County	69,300	78,000	94,850	109,450
Polk County				
Warren County				
Omaha, NE-IA MSA (part): Pottawattamie County, IA	78,800	88,750	107,800	124,400
Dubuque, IA MSA: Dubuque County	79,500	89,500	108,750	125,500
Waterloo-Cedar Falls, IA MSA:				
Black Hawk County	70,300	79,150	96,200	111,000
Brewer County				
HUD Field Office: Omaha Office				
Omaha, NE-IA MSA (part):				
Douglas County, NE	78,800	88,750	107,800	124,400

Market area designation and local jurisdictions	Mortgage Limits			
	1-family and condominium unit	2-family	3-family	4-family
Sarpy County, NE				
Washington County				
HUD Field Office: Topeka Office				
Topeka, KS MSA: Shawnee County	70,300	79,150	96,200	111,000
Other Areas: Sedgwick County	76,000	85,500	103,500	120,500
REGION VIII				
HUD Field Office: Denver Office				
Denver, CO PMSA:				
Adams County	90,000	101,300	122,650	142,650
Arapahoe County				
Denver County				
Douglas County				
Jefferson County				
Boulder-Longmont, CO PMSA: Boulder County	101,250	114,000	138,000	160,500
Fort Collins-Loveland, CO MSA: Larimer County	93,550	105,350	128,000	147,700
Colorado Springs, CO MSA: El Paso County	101,250	114,000	138,000	160,500
State of Colorado:				
Eagle County	101,250	114,000	138,000	160,500
Elbert County	83,900	94,500	114,850	132,500
Grand County	80,750	90,950	110,500	127,500
Routt County	90,000	101,300	122,650	142,650
Summit County	101,250	114,000	138,000	160,500
Teller County	80,750	90,950	110,500	127,500
Pitkin County	90,000	101,300	122,650	142,650
Other Areas	71,800	80,900	98,300	113,400
HUD Field Office: Helena Office				
State of Montana	75,500	84,000	102,500	118,000
HUD Field Office: Salt Lake City Office				
Salt Lake City-Ogden, UT MSA:				
Davis County	80,450	90,600	110,100	127,050
Salt Lake County				
Weber County				
Other Areas:				
Washington County	75,900	85,450	103,850	119,850
Summit County	94,500	106,450	129,350	149,250
HUD Field Office: Casper Office				
Teton County	91,200	102,720	124,800	144,000
State of Wyoming	75,000	84,000	102,500	118,000
HUD Field Office: Fargo Office				
Fargo-Moorhead, ND-MN MSA:				
Cass County, ND	77,900	87,750	106,600	123,000
Grand Forks, ND	72,500	81,650	99,250	114,500
Other Areas:				
Burleigh County	70,750	79,700	96,850	111,750
Morton County	70,750	79,700	96,850	111,750
HUD Field Office: Sioux Falls Office				
Minnehaha County	77,950	87,750	109,050	125,800
Lincoln County	75,000	84,000	102,500	118,000
Pennington County				
Meade County				
REGION IX				
HUD Field Office: Los Angeles Office				
Los Angeles Office Metro and Non-Metro Areas:				
Los Angeles County	101,250	114,000	138,000	168,500
San Luis Obispo County				
Santa Barbara County				
Ventura County				
Kern County				
HUD Field Office: San Francisco Office				
San Francisco Office Metro and Non-Metro Areas:				
Alameda County	101,250	114,000	138,000	168,500

Market area designation and local jurisdictions	Mortgage Limits			
	1-family and condominium unit	2-family	3-family	4-family
Contra Costa County				
Del Norte County				
Humboldt County				
Lake County				
Marin County				
Mendocino County				
Monterey County				
Napa County				
San Benito County				
San Francisco County				
San Mateo County				
Santa Clara County				
Santa Cruz County				
Solano County				
Sonoma County				
HUD Field Office: Fresno Office				
Fresno Office Metro and Non-Metro Areas:				
Fresno County	101,250	114,000	138,000	168,500
Kern County				
Kings County				
Madera County				
Mariposa County				
Merced County				
Stanislaus County				
Tulare County				
HUD Field Office: Sacramento Office				
Sacramento Office Metro and Non-Metro Areas:				
Alpine County	101,250	114,000	138,000	168,500
Amador County				
Butte County				
Calaveras County				
Colusa County				
El Dorado County				
Glenn County				
Lassen County				
Modoc County				
Nevada County				
Placer County				
Plumas County				
Sacramento County				
San Joaquin County				
Shasta County				
Sierra County				
Siskiyou County				
Sutter County				
Tehama County				
Trinity County				
Tuolumne County				
Yolo County				
Yuba County				
HUD Field Office: San Diego Office				
San Diego Office Metro and Non-Metro Areas:				
Imperial County	101,250	114,000	138,000	168,500
San Diego County				
HUD Field Office: Santa Ana Office				
Orange County	101,250	114,000	138,000	168,500
Riverside Country				
San Bernardino County				
Mono County	75,000	84,000	102,500	118,000
HUD Field Office: Las Vegas Office				
Las Vegas, NV MSA: Clark County	90,000	101,300	122,650	142,650
State of Nevada Non-Metro Areas:				
Lincoln County	75,000	84,000	102,500	118,000
Nye County (part)				
HUD Field Office: Reno Office				
Reno, NV MSA: Washoe County	95,800	107,900	131,050	151,250
State of Nevada Non-Metro Areas:				
Carson City County	85,500	96,300	117,000	135,000
Churchill County	75,000	84,000	102,500	118,000

Market area designation and local jurisdictions	Mortgage Limits			
	1-family and condominium unit	2-family	3-family	4-family
Douglas County				
Elko County				
Esmeralda County				
Eureka County				
Humbolt County				
Lander County				
Lyon County				
Mineral County				
Nye County (part)				
Pershing County				
Storey County				
White Pine County				
HUD Field Office: Phoenix Office				
Phoenix, AZ MSA: Maricopa County	101,250	114,000	138,000	160,500
Other Areas:				
Coconino County	80,750	90,950	110,500	127,500
Pinal County	69,350	78,100	94,900	109,500
HUD Field Office: Tucson Office				
Tucson, AZ MSA: Pima County	101,250	114,000	138,000	160,500
HUD Field Office: Honolulu Office				
State of Hawaii: Metro and Non-Metro Areas	151,850	171,000	207,000	240,750
Territory of Guam	101,250	114,000	138,000	160,500
REGION X				
HUD Field Office: Seattle Office				
Seattle, WA PMSA:				
King County	101,250	114,000	138,000	160,500
Snohomish County				
Tacoma, WA PMSA: Pierce County	87,650	98,700	119,900	136,350
Yakima, WA MSA: Yakima County	72,000	81,500	99,000	114,000
Bremerton, WA MSA: Kitsap County	80,200	90,350	109,750	126,650
Olympia, WA MSA: Thurston County	79,800	89,850	109,200	126,000
HUD Field Office: Portland Office				
Portland, OR PMSA:				
Clackamas County	89,750	101,050	122,800	141,700
Multnomah County				
Washington County				
Yamhill County				
Vancouver, WA PMSA:				
Clark County	86,450	97,350	118,300	136,500
All Other Areas	85,200	95,950	116,600	134,550
HUD Field Office: Anchorage Office				
State of Alaska: All Areas	135,000	151,950	183,950	213,950
HUD Field Office: Spokane Office				
Richland-Kennewick-Pasco, WA MSA:				
Benton County	85,500	96,300	117,000	135,000
Franklin County				
Spokane, WA MSA: Spokane County	75,350	84,850	103,100	118,950
HUD Field Office: Boise Office				
Boise City, ID MSA: Ada County	88,000	99,100	120,400	138,900

[FR Doc. 88-4578 Filed 3-2-88; 8:45 am]

BILLING CODE 4210-27-M

federal register

Thursday
March 3, 1988

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 91

Migratory Bird Hunting and Conservation Stamp (Duck Stamp) Contest; Proposed Rule

DEPARTMENT OF THE INTERIOR

50 CFR Part 91

Migratory Bird Hunting and Conservation Stamp (Duck Stamp) Contest

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed Rule.

SUMMARY: The Service is revising the regulations governing the conduct of the annual Migratory Bird Hunting and Conservation Stamp (Duck Stamp) Contest. The amendments include the following changes: (1) Deadline date moved up from October 1 to September 15; (2) Provides for a procedure for judging a tie vote for first, second, and third place; (3) Identifies forty-two species from which five are eligible in any given year. The dates and location of this year's contest are also announced, and the public is invited to attend.

DATES: 1. Comments must be received on or before April 4, 1988.

2. This rule is effective July 1, 1988, the beginning of the 1988–1989 contest.

3. This year's contest will be held on November 7 and 8, 1988, beginning at 11 a.m. on Monday and 9 a.m. on Tuesday.

4. Persons wishing to enter this year's contest may submit entries anytime after July 1, but all must be postmarked no later than midnight September 15.

ADDRESSES: Requests for complete copies of the regulations, reproduction rights and display agreements should be addressed to: Migratory Bird Hunting and Conservation Stamp Contest, Department of the Interior, U.S. Fish and Wildlife Service, Room 2643, Washington, DC 20240.

Location of contest: Department of the Interior Building Auditorium (C Street Entrance), 1800 C Street NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Norma Opgrand, Coordinator, Federal Duck Stamp Program, U.S. Fish and Wildlife Service, Room 2643, Washington, DC 20240, Telephone: (202) 343–5508.

SUPPLEMENTARY INFORMATION: Analysis of these amendments to 50 CFR Part 91 has resulted in the Department's determining that they are not major actions under the provisions of Executive Order 12291. The amendments also will not significantly affect a substantial number of small entities under the provisions of the Regulatory Flexibility Act, since entrants are individuals and not small entities as defined in 5 U.S.C. 601, *et seq.* The amendments do not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501, *et seq.* No compliance with the National Environmental Policy Act is required because this rule constitutes minor changes or amendments to an approved action (the Duck Stamp Contest), which changes have no potential for causing substantial environmental impact.

The primary authors of this document are David Fisher, James E. Pinkerton, and Norma E. Opgrand, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 91

Hunting, Wildlife.

Accordingly, 50 CFR Part 91 is proposed to be revised to read as follows:

PART 91—MIGRATORY BIRD HUNTING AND CONSERVATION STAMP CONTEST

Subpart A—Introduction

Sec.

91.1 Purpose of regulations.
91.2 Definitions.
91.3 Public attendance at contest.
91.4 Eligible species.

Subpart B—Procedures for Entering the Contest

91.11 Contest deadlines.
91.12 Contest eligibility.
91.13 Technical requirements for design and submission of entry.
91.14 Restrictions on subject matter of entry.
91.15 Suitability of entry for engraving.
91.16 Submission procedures for entry.
91.17 Property insurance for entries.
91.18 Failure to comply with contest regulations.

Subpart C—Procedures for Administering the Contest

91.21 Selection and qualification of contest judges.
91.22 Display of entries for contest.
91.23 Scoring criteria for contest.
91.24 Contest procedures.

Subpart D—Post-Contest Procedures

91.31 Return of entries after contest.

Authority: 5 U.S.C. 301; 31 U.S.C. 9701.

Subpart A—Introduction

§ 91.1 Purpose of regulations.

(a) The purpose of these regulations is to establish procedures for selecting a design that will be used for the annual Migratory Bird Hunting and Conservation Stamp.

(b) All individuals entering the contest must comply with these regulations, a copy of which (along with the reproduction rights and display agreements) may be requested from the Migratory Bird Hunting and Conservation Stamp Office (Duck Stamp Office), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

(c) All contestants from the immediately preceding contest will be sent a copy of the regulations, the display agreement, and the reproduction rights agreement.

§ 91.2 Definitions.

Contest Coordinator—the contest official responsible for overseeing the judges' scores for each entry. The contest coordinator will be named by the Secretary of the Interior and will not be a past or present employee of the Fish and Wildlife Service.

Display agreement—a document that each contestant must complete, sign and submit with the entry. The signed agreement permits the Service to display the entry for the Migratory Bird Hunting and Conservation Stamp for promotional purposes.

Qualifying entry—each original work of art submitted to the contest that satisfies the requirements outlined in Subpart B.

Reproduction rights agreement—a document that each contestant must sign and submit with the entry. The signed agreement certifies that the entry is an original work of art and stipulates how the Fish and Wildlife Service may use the winning entry.

§ 91.3 Public attendance at contest.

All phases of the voting process will be open for viewing by the general public.

§ 91.4 Eligible species.

(a) Whistling-Ducks:
  (1) Fulvous Whistling-Duck (Dendrocygna bicolor)
  (2) Black-bellied Whistling-Duck (Dendrocygna autumnalis)

(b) Swans:
  (1) Trumpeter Swan (Cygnus buccinator)
  (2) Tundra Swan (Cygnus columbianus)

(c) Geese:
  (1) Greater White-fronted Goose (Anser albifrons)
  (2) Snow Goose (including bluephase) (Chen caerulescens)
  (3) Ross' Goose (Chen rossii)
  (4) Emperor Goose (Chen canagica)
  (5) Canada Goose (Branta canadensis)

(d) Brant:
  (1) Brant (Branta bernicla)

(e) Dabbling Ducks:
  (1) Wood Duck (Aix sponsa)
  (2) American Widgeon (Anas americana)

(3) Gadwall (Anas strepera)
(4) Green-winged Teal (Anas crecca)
(5) Mallard (Anas platyrhynchos)
(6) Mottled Duck (Anas fulvigula)
(7) American Black Duck (Anas rubripes)
(8) Northern Pintail (Anas acuta)
(9) Blue-winged Teal (Anas discors)
(10) Cinnamon Teal (Anas cyanoptera)
(11) Northern Shoveler (Anas clypeata)

(f) Diving Ducks:
(1) Canvasback (Aythya valisineria)
(2) Redhead (Aythya americana)
(3) Ring-necked Duck (Aythya collaris)
(4) Greater Scaup (Aythya marila)
(5) Lesser Scaup (Aythya affinis)

(g) Sea Ducks:
(1) Common Eider (Somateria mollissima)
(2) King Eider (Somateria spectabilis)
(3) Spectacled Eider (Somateria fischeri)
(4) Steller's Eider (Polysticta stelleri)
(5) Harlequin Duck (Histrionicus histrionicus)
(6) Old Squaw (Clangula hyemalis)
(7) Black Scoter (Melanitta nigra)
(8) Surf Scoter (Melanitta perspicillata)
(9) White-winged Scoter (Melanitta fusca)
(10) Bufflehead (Bucephala albeola)
(11) Barrow's Goldeneye (Bucephala islandica)
(12) Common Goldeneye (Bucephala clangula)

(h) Mergansers:
(1) Hooded Mergansers (Lophodytes cucullatus)
(2) Red-breasted Merganser (Mergus serrator)
(3) Common Merganser (Mergus merganser)

(i) Stiff Tails:
(1) Ruddy Duck (Oxyura jamaicensis)

Five of the above listed species will be identified as eligible each year; those eligible species will be provided to each contestant with the information provided in section 91.1.

Subpart B—Procedures for Entering the Contest

§ 91.11 Contest deadlines.

(a) The contest will officially open on July 1 of each year.

(b) Entries must be postmarked no later than midnight of September 15.

§ 91.12 Contest eligibility.

United States citizens, nationals, or resident aliens are eligible to participate in the contest. Any person who has won the contest during the preceding three years shall be ineligible to submit an entry in the current year's contest. Contest judges and their relatives are ineligible to submit an entry. All entrants must submit a non-refundable fee of $50.00 by a cashier's check, certified check, or money order made payable to: Fish and Wildlife Service. (Personal checks will not be accepted). All entrants must submit signed reproduction rights and display agreements.

§ 91.13 Technical requirements for design and submission of entry.

The design must be a horizontal drawing or painting seven (7) inches high and ten (10) inches wide. The entry may be drawn in any medium desired by the contestant and may be in either multicolor or black and white. No scrollwork, lettering, bird band numbers, signatures or initials may appear on the design. Each entry must be matted (over or under) with a nine (9) inch by twelve (12) inch white mat, one (1) inch wide, and cannot exceed one quarter (¼) inch in total thickness. Entries must not be framed, under glass, or have a protective covering that is attached to the entry.

§ 91.14 Restrictions on subject matter of entry.

A live portrayal of any bird(s) of the five identified eligible species must be the dominant feature of the design. The design may depict more than one of the eligible species. The design must be the contestant's original creation and may not be copied or duplicated from previously published art, including photographs. An entry submitted in a prior contest that was not selected for the Federal or a state stamp design may be submitted in the current contest if it meets the above criteria.

§ 91.15 Suitability of entry for engraving.

All entries should be drawn with fullest attention to clarity of detail and the relationship of tonal values. These prerequisites are important to interpret pictorial elements to hand engraving for printing, as they determine the engraved line techniques and direction. The engraver relies on the accuracy of the artist's work for successful interpretation. An entry that is a line pencil drawing, scratchboard, or an etching should effectively interpret the full range of tone, rather than duplicate line engraving techniques of past Migratory Bird Hunting and Conservation Stamps. The engraver is primarily responsible for line interpretation and discipline, creating the miniature image of the stamp.

§ 91.16 Submission procedures for entry.

(a) Each contestant may submit only one entry. Each entry must be accompanied by a non-refundable entrance fee and a completed and signed Reproduction Rights Agreement and a completed and signed Display Agreement. The bottom portion of the Reproduction Rights Agreement must be attached to the back of the entry.

(b) Each entry should be appropriately wrapped to protect the art work and sent by registered mail or hand delivered to: Migratory Bird Hunting and Conservation Stamp Contest, U.S. Fish and Wildlife Service, Room 2643, Department of the Interior, Washington, DC 20240.

§ 91.17 Property insurance for entries.

Each contestant is responsible for obtaining adequate insurance coverage for his/her entry. The Department of the Interior will not insure the entries it receives. The Department of the Interior is not responsible for loss or damage unless it is caused by its negligence or willful misconduct; in any event, the liability of the Department of the Interior will not exceed the amount of the fifty dollar ($50.00) entry fee.

§ 91.18 Failure to comply with contest regulations.

Any entry that does not comply with the requirements of Subpart B will be disqualified from the contest.

Subpart C—Procedures for Administering the Contest

§ 91.21 Selection and qualification of contest judges.

Judges will be selected annually by the Secretary of the Interior. Current employees of the Fish and Wildlife Service and their relatives are ineligible to serve as judges for the contest. The judges will be reimbursed for reasonable travel expenses. The judges will be announced on the first day of the contest.

§ 91.22 Display of entries for contest.

All eligible entries will be displayed in the Department of the Interior auditorium in numerical order. The only visible identification on each entry will be the number assigned to it in chronological order when it is received and processed by the Service.

§ 91.23 Scoring criteria for contest.

Entries will be judged on the basis of anatomical accuracy, artistic composition and suitability for engraving in the production of a stamp.

§ 91.24 Contest procedures.

(a) The day before the judging begins, the judges will be briefed on all aspects of the judging procedures and other

details of the competition, and will preview all eligible artwork entered.

(b) Prior to the first round of judging, the judges will spend an additional two hours in the auditorium reviewing the entries the first day before the official contest is open to the public.

(c) All qualified entries will be shown one at a time to the judges by the Contest Coordinator or a contest staff member. The judges will vote "in" or "out" on each entry; those entries receiving a majority of votes "in" will be eligible for the second round of judging. The remaining entries will be placed on display as a group for public viewing.

(d) Prior to the second round of judging, each judge may select not more than five entries from those eliminated in the first round. Those additional entries selected by the judges will be eligible to be judged in the second round.

(e) Prior to the second round of judging, the entries selected by the judges under the procedures of paragraphs (c) and (d) of this section will be displayed in numerical order in the front of the auditorium.

(f) In the second round of judging, each entry selected in the first round, plus the additional entries selected by judges, will be shown one at a time to the judges by the Contest Coordinator or a contest staff member. The judges will vote by indicating a numerical score from one to nine for each entry. One highest and one lowest score for each entry will be eliminated and the remaining scores will be totaled to provide the entry score. The entries receiving the five highest scores will be advanced to the third and final round.

(g) In the third round of judging, the judges will vote on the remaining entries using the same method as in round two. The Contest Coordinator will tabulate the final votes and present them to the Director, U.S. Fish and Wildlife Service, who will announce the winning entry as well as the entries that placed second and third.

(h) In case of a tie vote for first, second, or third place in the final round, the judges will vote again on the entries that are tied. The judges will vote using the same method as in rounds two and three.

(i) The selection of the winning entry by the judges will be final. Each contestant will be notified of the winning artist and the design. The winning artist will receive a pane of Duck Stamps signed by the Secretary of the Interior at the Duck Stamp Contest the following year. The artists placing first, second, and third will receive a framed commendation from the Director of the U.S. Fish and Wildlife Service.

Subpart D—Post-Contest Procedures

§ 91.31 Return of entries after contest.

All entries will be returned by certified mail to the participating artists within 120 days after the contest. If artwork is returned to the Service because it is undelivered or unclaimed (this may happen if an artist changes address), the Service will not be obligated to trace the location of the artist to return the artwork. Any artist who changes his or her address is responsible for notifying the Service of the change. All unclaimed entries will be destroyed one year from the date of the contest.

Date: February 1, 1988.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-4619 Filed 3-2-88; 8:45 am]

BILLING CODE 4310-55-M

federal register

Thursday,
March 3, 1988

Part V

Department of Defense

Corps of Engineers, Department of the Army

33 CFR Part 334

Restricted Area, Anaheim Bay Harbor, CA; Final Rule

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Restricted Area, Anaheim Bay Harbor, CA

AGENCY: Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is amending the regulations which establish a danger zone in the waters of Anaheim Bay Harbor, California. The area is redesignated as a restricted area and the regulations are changed to simplify enforcement. The amendments eliminate the requirement for a separate decal marking and registration system for vessels and establishes a small craft channel in the Inner Harbor to prevent vessels from entering the restricted area.

EFFECTIVE DATE: April 4, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Cliff Rader at (213) 894–0351 or Mr. Sam Collinson at (202) 272–1782.

SUPPLEMENTARY INFORMATION: On 29 September, 1987, the Army Corps of Engineers published these amendments in the proposed rule section of the **Federal Register**, (52 FR 36439) with the comment period ending on 29 October, 1987. No comments were received in response to the proposed rule. Accordingly, the Department of the Army is establishing these rules as proposed.

Note: This regulation is issued with respect to a military function of the Defense Department and provisions of E.O. 12291 do not apply. The Department of the Army certifies that these regulations will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones. In consideration of the foregoing, the Department of the Army is amending Part 334 of Title 33 to read as follows:

PART 334—DANGER ZONES AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

2. Section 334.930 is revised to read as follows:

§ 334.930 Anaheim Bay Harbor, California; Naval Weapons Station, Seal Beach.

(a) *The restricted area.* The water of Anaheim Bay Harbor between the east and west jetties at the United States Naval Weapons Station, Seal Beach, California, and the contiguous tidal channel and basin as far east as the Anaheim Bay bridge.

(b) *The regulation.* (1) The authority of the Naval Weapons Station Commanding Officer in this area extends to restricting and disallowing the navigating or anchorage of craft during such times as the Commanding Officer determines that considerations of national security or safety warrant such action(s).

(2) All craft authorized transit of this area shall stay within the limits of the entrance channel in the Outer Harbor, and confine their movement to within the limits of the marked small craft channel at the southern portion of the Inner Harbor.

(3) Recreational craft, such as water skis, jet skis, rowboats, canoes, kayaks, wind surfers, sailboards, surfboards, etc., are specifically prohibited within the restricted area.

(4) Boats unable to throttle down or to maintain steerage way at 5 miles per hour speed shall proceed at the minimum speed consistent with seamanship in an area regularly subject to waterborne explosive handling operations. In case of doubt, boat operators of inbound boats will remain in the west end of the basin and outbound boats in the east end of the basin until informed by a representative of the Naval Weapons Station or U.S. Coast Guard of the completion of the waterborne explosive handling hazard.

(5) Smoking, open flames and barbecues in boats are prohibited during the transit of this area.

(6) Nothing in the regulations in this section shall be construed as relieving the owner or persons in command of any vessels or plant from the penalties of the law for obstructing navigation or for not complying with the navigation laws in regard to lights or signals or for otherwise violating law.

(7) All vessel operators shall heed and obey all posted signs and/or instructions issued by security personnel of the U.S. Naval Weapons Station.

(8) The regulations in this section shall be enforced by the Commanding Officer, U.S. Naval Weapons Station, Seal Beach, California, and such agencies as he/she may designate. For clarification or other information, the U.S. Naval Weapons Station Command Duty Officer should be contacted at (213) 594–7101.

Date: February 3, 1988.

Approved:

Robert W. Page,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 88–4601 Filed 3–2–88; 8:45 am]

BILLING CODE 3710-KF-M

federal register

Thursday
March 3, 1988

Part VI

Department of Education

34 CFR Part 304

Removal of Architectural Barriers to the Handicapped; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 304

Removal of Architectural Barriers to the Handicapped

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations for the Removal of Architectural Barriers to the Handicapped program. This program is authorized under section 607 of Part A of the Education of the Handicapped Act, as amended. These regulations are needed to implement the amendments to section 607 that are included in the Education of the Handicapped Act Amendments of 1986. These final regulations add new provisions to this part to include the Secretary of the Interior as an eligible applicant for funds.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Brotman, Division of Assistance to States, Office of Special Education Programs, Department of Education, 400 Maryland Avenue SW., (Switzer Building, Room 3615—MES 2313) Washington, DC 20202; Telephone: (202) 732–1031.

SUPPLEMENTARY INFORMATION: Under section 607 of the Education of the Handicapped Act (EHA), as amended, the Secretary provides grants for the purpose of altering existing buildings and equipment in order to make them accessible to handicapped children and other handicapped individuals.

To carry out the requirements of this program, $40 million was appropriated under Pub. L. 98–8, commonly referred to as the Emergency Jobs Act of 1983.

The Education of the Handicapped Act Amendments of 1986, Pub. L. 99–457, add the Secretary of the Interior as an eligible applicant. These final regulations add new provisions to make the Secretary of the Interior an eligible applicant for a grant under this part, to establish requirements for application submission, and to reference applicable regulations.

On November 10, 1987, the Secretary published a notice of proposed rulemaking (NPRM) for this amendment in the **Federal Register** (52 FR 43312). In the NPRM, new §§ 304.15 and 304.16 were proposed to describe the application from the Secretary of the Interior. Sections 304.20(d) and 304.21 of the proposed regulations specified the amount of the initial grant award and reallocation that the Secretary of the Interior is eligible to receive. The Secretary of the Interior would be eligible to receive an allotment of up to 1.25 percent of any future appropriation. Paragraph (b)(2) of § 304.20 was amended in order to clarify that the distribution of funds to States under this program is made after subtracting the amount of funds available to the Secretary of the Interior and to the insular areas.

There are no substantive differences between the NPRM and these final regulations.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, five parties submitted comments on the proposed regulations. Four of these parties supported the proposed regulations. An analysis of the only substantive comment follows. No substantive changes were made. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Section 304.20

Comments: One commenter expressed concern about the requirement that 1.25 percent of the aggregate amount of any appropriation enacted after September 30, 1986, be made available to the Department of the Interior. The commenter expressed concern about the 1.25 percent reduction in already limited funding.

Discussion: Section 304.20(d) states that the Secretary of Education may reserve up to 1.25 percent of the aggregate amount available from any appropriation enacted after September 30, 1986, for use by the Secretary of the Interior. This formula for grant allocation to the Department of the Interior is similar to the one used in Part B of the Education of the Handicapped Act. Under the Removal of Architectural Barriers to the Handicapped program, the Secretary will take into account all of the pertinent circumstances involved at the time funds are awarded before determining the actual amount will be set aside for the Department of the Interior.

Changes: None.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernment partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

List of Subjects in 34 CFR Part 304

Education, Education of the handicapped, Grant programs—education, Local educational agencies, School, School construction, State educational agencies.

Dated: February 19, 1988.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.155; Removal of Architectural Barriers to the Handicapped)

The Secretary amends Part 304 of Title 34 of the Code of Federal Regulations as follows:

PART 304—REMOVAL OF ARCHITECTURAL BARRIERS TO THE HANDICAPPED

1. The authority citation for Part 304 is revised to read as follows:

Authority: 20 U.S.C. 1406, unless otherwise noted.

2. The table of contents for Part 304 is amended by revising the titles of Subparts B and C, by adding new center headings before §§ 304.10 and 304.15 in Subpart B, and by adding new §§ 304.15 through 304.16 to Subpart B to read as follows:

* * * * *

Subpart B—How Does an SEA or the Secretary of the Interior Apply for a Grant?

Applications From an SEA

Sec.

* * * * *

304.12–304.14 [Reserved]

Application From the Secretary of the Interior

304.15 Submission of an application by the Secretary of the Interior.
304.16 Applicable regulations.
304.17–304.19 [Reserved]

Subpart C—How Does the Secretary Make a Grant?

* * * * *

3. Subpart B is amended by revising the title of the subpart, by adding a reference to an OMB control number following § 304.11, by adding new center headings before §§ 304.10 and 304.15, and by adding new §§ 304.15–304.16 to read as follows:

Subpart B—How Does an SEA or the Secretary of the Interior Apply for a Grant?

Application From an SEA

* * * * *

§ 304.11 Content of SEA application.

* * * * *

(Approved by the Office of Management and Budget under control number 1820–0534)

* * * * *

Application From the Secretary of the Interior

§ 304.15 Submission of an application by the Secretary of the Interior.

In order to receive a grant under this part, the Secretary of the Interior shall submit an application that is consistent with the requirements under § 304.11.

(Authority: 20 U.S.C. 1406)

§ 304.16 Applicable regulations.

The Secretary of the Interior shall comply with all the requirements that apply to SEAs under Subparts A, C, F, and G of this part.

(Authority: 20 U.S.C. 1406)

4. Subpart C is amended by revising the title of the subpart, by revising the section heading and paragraph (b)(2) and adding a new paragraph (d) in § 304.20, and by revising § 304.21 to read as follows:

Subpart C—How Does the Secretary Make a Grant?

§ 304.20 Amount of a grant.

* * * * *

(b) * * *

(2) Multiplying that fraction by the amount of funds available for grants under this part minus the amount reserved under paragraphs (c) and (d) of this section.

* * * * *

(d) From any appropriation enacted after September 30, 1986, the Secretary reserves up to 1.25 percent of the aggregate amount available under this part for a grant to the Secretary of the Interior to be used on reservations served by schools operated for Indian children by the Department of the Interior.

(Authority: 20 U.S.C. 1406)

§ 304.21 Reallocation of excess funds.

The Secretary may reallocate funds—or portions of those funds—made available to the Secretary of the Interior or to a State educational agency under this part if the Secretary determines that the Secretary of the Interior or the State educational agency cannot use the funds in a manner consistent with the requirements of applicable statutes and the regulations in this part. Any reallocation is made on the same basis as grants are determined under § 304.20.

(Authority: 20 U.S.C. 1406)

[FR Doc. 88–4667 Filed 3–2–88; 8:45 am]
BILLING CODE 4000–01–M

federal register

Thursday,
March 3, 1988

Part VII

Department of Education

Office of Special Education and Rehabilitative Services

Experimental and Innovative Training Program, Fiscal Year 1988; Invitation for Applications for New Awards and Proposed Funding Priorities; Notices

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Experimental and Innovative Training Program; Proposed Funding Priorities for Fiscal Year 1988

AGENCY: Department of Education.

ACTION: Notice of proposed funding priorities for Fiscal Year 1988.

SUMMARY: The Secretary proposes annual funding priorities for training grants under the Experimental and Innovative Training Program in order to ensure effective use of program funds and to direct funds to areas of identified personnel need during fiscal year 1988. The Secretary will give an absolute preference to applications that meet the terms of the priorities.

DATE: Comments must be received on or before April 4, 1988.

ADDRESS: All comments and suggestions should be addressed to Toby Lawrence, Division of Resource Development, Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3326—M/S 2312), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Toby Lawrence, (202) 732–1351.

SUPPLEMENTARY INFORMATION: Grants for the Experimental and Innovative Training Program are authorized by Title III, section 304 of the Rehabilitation Act of 1973, as amended. Program regulations for the Experimental and Innovative Training Program are established at 34 CFR Part 387. The purpose of the Experimental and Innovative Training Program is to support projects designed to develop new types of training programs for rehabilitation personnel and to demonstrate the effectiveness of these new types of training programs for rehabilitation personnel in providing rehabilitation services to persons with severe disabilities and to develop new and improved methods of training rehabilitation personnel to achieve more effective delivery of rehabilitation services by State and other rehabilitation agencies.

Eligible Applicants: Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies and organizations, including institutions of higher education.

Funds Available: The Congress appropriated $30,000,000 for the Rehabilitation Training Program in fiscal year 1988. Of this amount, approximately $800,000 to $1,200,000 will be available for the support of new experimental and innovative training projects announced under this notice. It is planned that $260,000 to $400,000 will be available for each of the two priority categories and $250,000 to $350,000 for a third group of applications that are not responsive to the described priorities. An estimated two to four awards will be made under each of the two priority categories at an average project award of $100,000. An estimated two to three awards will be funded under the non-priority category at an average project award of $100,000.

Proposed Priorities

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications submitted under the Experimental and Innovative Training Program that address the priorities described below. An absolute preference is one which permits the Secretary to select only those applications that meet the described priorities.

Priority 1

The training under this priority must address the training of rehabilitation counselors and supervisiors of rehabilitation counselors in State vocational rehabilitation agencies to provide effective rehabilitation services to traumatically brain-injured adults. The training must upgrade their knowledge and improve their skills: (1) To determine and substantiate the eligibility of traumatically brain-injured adults to receive rehabilitation services; (2) to evaluate the functional capacities of traumatically brain-injured adults; (3) to plan and deliver effective vocational and independent living rehabilitation services to traumatically brain-injured adults; (4) to coordinate community resources in the rehabilitation plan to address their needs; (5) to utilize rehabilitation engineering resources; and (6) to develop jobs for and place traumatically brain-injured adults in employment.

The training must include an emphasis in its curriculum on improving the capacity of personnel trained to develop linkages between providers of special education and vocational rehabilitation services and enhance coordination and transition among service providers. The training must include technical assistance to rehabilitation continuing education programs to increase their capacity to train employed personnel to provide improved rehabilitation services to traumatically brain-injured adults. This technical assistance is intended to ensure the integration and replication of training supported under this priority by rehabilitation continuing education programs. In addition, written training materials and visual aids must be developed and made available to rehabilitation continuing education programs for their use in training rehabilitation personnel to provide effective services to traumatically brain-injured adults. Program regulations for the Rehabilitation Continuing Education Programs are established at 34 CFR Part 389.

Priority 2

The training under this priority must address the training of direct service personnel to provide community-based supported employment services. The 1986 Amendments to the Rehabilitation Act of 1973 established a State supported employment formula grant program and added supported employment as an acceptable employment outcome under the traditional vocational rehabilitation program under Title I of the Act. While supported employment is a viable rehabilitation method for achieving competitive employment for individuals with the most severe handicaps, there is a critical shortage of direct service personnel, such as job coaches, to provide supported employment services. Unless this shortage is addressed, the full benefits of the new program and services under the vocational rehabilitation program may be delayed unnecessarily.

Training under this priority must be non-academic in nature. The training approach should include a sequential series of workshops or seminars and practicum experiences in community-based settings that directly involve trainees in providing supported employment services to individuals with the most severe handicaps. Programs should provide intensive training in all skill areas necessary for direct service personnel to provide effective supported employment services. Individuals who will be trained in the program should have prior experience in working with individuals with severe handicaps and may be currently employed, recruited from retirement, or already participating in another educational training program. The training may be supplementary to an existing training program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding the proposed priorities.

All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in Room 3326, Mary E. Switzer Building, 330 C Street, SW., Washington, DC between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Authority: 29 U.S.C. 774.

Dated: February 16, 1988.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.129, Rehabilitation Training Program)

[FR Doc. 88-4665 Filed 3-2-88; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No.: 84.129

Invitation To Submit Applications for New Awards Under the Experimental and Innovative Training Program for Fiscal Year 1988

Purpose: To provide grants to State vocational rehabilitation agencies and other public and private agencies and organizations, including institutions of higher education, for the purpose of: (1) Developing new types of rehabilitation personnel and demonstrating the effectiveness of these new types of personnel in providing rehabilitation services to persons with severe handicaps; and (2) developing new and improved methods of training rehabilitation personnel to achieve more effective delivery of rehabilitation services by State and other rehabilitation agencies.

Deadline for Transmittal of Applications: May 2, 1988.

Applications Available: March 14, 1988.

Project Period: Not to exceed 36 months.

Applicable Regulations: (a) Regulations governing the Experimental and Innovative Training Program (34 CFR Parts 385 and 387); (b) the Education Department General Administrative Regulations (EDGAR) (34 CFR parts 74, 75, 77, and 78); and (c) when adopted in final form, the Notice of Proposed Priorities published in this issue of the **Federal Register**. Applicants should prepare their applications based on the proposed priorities. If there are any changes made when the final priorities are published, applicants will be given an opportunity to amend or resubmit their applications.

Priority	Estimated available funds	Estimated number of awards	Estimated range of awards	Estimated average size of awards
Traumatic brain injury	$260,000 to $400,000	2 to 4	$100,000 to $130,000	$100,000
Supported employment	$260,000 to $400,000	2 to 4	$100,000 to $130,000	$100,000

In addition, an estimated $250,000 to $350,000 will be available to support two to three applications that do not respond to one of the proposed priorities. The estimated range of awards will be $100,000 to $125,000 and the estimated average size of awards will be $100,000 under the non-priority category.

For Applications or Information Contact: Mary Vest, Office of Developmental Programs, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3332-M/S 2312), Washington, D.C. 20202, Telephone: (202) 732-1343.

Program Authority: 29 U.S.C. 774.

Dated: February 29, 1988.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 88-4666 Filed 3-2-88; 8:45 am]

BILLING CODE 4000-01-M

federal register

Thursday
March 3, 1988

Part VIII

Department of Education

Office of Special Education and Rehabilitative Services

34 CFR Part 333

Technology, Educational Media, and Materials for the Handicapped Program; Final Regulations and Notice of Final Annual Funding Priorities

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Part 333

Technology, Educational Media, and Materials for the Handicapped Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues regulations implementing Part G of the Education of the Handicapped Act (EHA), as added by Pub. L. 99–457. The regulations govern selection of projects and centers for funding.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments, with the exception of §§333.21 and 333.22. Sections 333.21 and 333.22 will become effective after the information collection requirements contained in those sections have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Linda Glidewell, Department of Education, Office of Special Education and Rehabilitative Services, Office of Special Education Programs, Division of Innovation and Development, 400 Maryland Avenue SW. (Switzer Building, Room 3094 — M/S 2313), Washington, DC. 20202. Telephone: (202) 732–1099.

SUPPLEMENTARY INFORMATION: The purpose of the new Part G is to advance the use of new technology, media, and materials in the education of students with handicaps and the provision of early intervention services to infants and toddlers with handicaps. In creating a new Part G, Congress expressed the intent that the projects and centers funded under that part should be primarily for the purpose of "enhancing research and development advances and efforts being undertaken by the public or private sector, and to provide necessary linkages to make more efficient and effective the flow from research and development to application." It should be noted that the listing of entities eligible to participate under this program includes public agencies and private nonprofit and for-profit organizations. Because of the private sector emphasis in this program, it is appropriate to make it clear that private entities are eligible. Also, unless their eligibility is explicit in the regulations, profit making enterprises may assume they are ineligible, because they are not generally eligible under other EHA programs. These regulations specify selection criteria only for research, evaluation, development, and demonstration projects. If other types of projects are funded, the Secretary will specify the selection criteria to be used in a future rulemaking action. Public Law 99–457 repealed EHA Section 653 authorizing Centers on Educational Media and Materials for the Handicapped, and these regulations will supersede the existing regulations at 34 CFR Part 333, which implemented section 653.

On December 9, 1987, the Secretary published a notice of proposed rulemaking (NPRM) for this program in the **Federal Register** at 52 FR 46720. There is no significant difference between the NPRM and these final regulations.

Public Comment

In the NPRM the Secretary invited comments on the proposed regulations. The Secretary did not receive any comments. The Secretary has made no significant changes in these regulations since publication of the NPRM.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 333

Education, Education of handicapped, Educational facilities, Government contracts.

(Catalog of Federal Domestic Assistance Number 84.180; Technology, Educational Media, and Materials for the Handicapped Program)

Dated: February 19, 1988.

William J. Bennett,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations by revising Part 333 to read as follows:

PART 333—TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR THE HANDICAPPED PROGRAM

Subpart A—General

Sec.

333.1 What is the Technology, Educational Media, and Materials for the Handicapped Program?
333.2 Who is eligible for an award?
333.3 What activities may the Secretary fund?
333.4 What priorities may the Secretary establish?
333.5 What regulations apply to this program?
333.6 What definitions apply to this program?
333.7–333.9 [Reserved]

Subpart B—[Reserved]

Subpart C—How Does the Secretary Make an Award?

333.20 How does the Secretary evaluate an application?
333.21 What selection criteria does the Secretary use to evaluate applications for research or evaluation activities?
333.22 What selection criteria does the Secretary use to evaluate applications for development or demonstration activities?
333.23–333.29 [Reserved]

Subpart D—What Conditions Must be Met After an Award?

333.30 What materials must be submitted by the grantee?
333.31–333.39 [Reserved]

Subpart E—[Reserved]

Authority: 20 U.S.C. 1461–1462, unless otherwise noted.

Subpart A—General

§ 333.1 What is the Technology, Educational Media, and Materials for the Handicapped Program?

The purpose of this program is to support projects and centers for advancing the availability, quality, use, and effectiveness of technology, educational media, and materials in the education of children and youth with handicaps and the provision of early intervention services to infants and toddlers with handicaps.

(Authority: 20 U.S.C. 1461)

§ 333.2 Who is eligible for an award?

The Secretary may award grants or contracts, or enter into cooperative agreements with, institutions of higher

education, State and local educational agencies, public agencies, and private nonprofit or for-profit organizations.

(Authority: 20 U.S.C. 1461)

§ 333.3 What activities may the Secretary fund?

The Secretary may fund activities that carry out the purpose of the program. These activities may include, but are not limited to, the following:

(a) Conducting research or evaluation on the need, use, design features, implementation, and effectiveness of technology, educational media, and materials.

(b) Demonstrating the effectiveness and the efficient implementation and use of technology, educational media, and materials.

(c) Designing and developing new technology, educational media, and materials.

(d) Adapting, modifying, and evaluating existing technology, educational media, and materials.

(e) Assisting the public and private sectors by providing advice and information to promote the development, use, distribution, and marketing of technology, educational media, and materials.

(f) Disseminating information through such means as publications, telecommunications, conferences, or presentations on the availability, quality, use, and effectiveness of technology, educational media, and materials.

(Authority: 20 U.S.C. 1461)

§ 333.4 What priorities may the Secretary establish?

(a) Each year the Secretary may select as a priority one or more of the types of activities listed in § 333.3.

(b) The Secretary announces these priorities in a notice published in the Federal Register.

(Authority: 20 U.S.C. 1461)

§ 333.5 What regulations apply to this program?

(a) The following regulations apply to grants and cooperative agreements under this program:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), and Part 78 (Education Appeal Board).

(2) The regulations in this Part 333.

(b) Any contracts awarded under this program are subject to the Federal Acquisition Regulation (FAR) in 48 CFR Chapter 1 and the Department of Education Acquisition Regulation (EDAR) in 48 CFR Chapter 34.

(Authority: 20 U.S.C. 1461)

§ 333.6 What definitions apply to this program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
EDGAR
Fiscal year
Grant
Grantee
Local educational agency
Nonprofit
Private
Project
Project period
Public
Secretary
State educational agency

(Authority: 20 U.S.C. 1461)

(b) *Definitions in 34 CFR Part 300.* The following terms used in this part are defined in 34 CFR 300.5, 300.13, and 300.14:

Handicapped children
Related services
Special education

(Authority: 20 U.S.C. 1401(a)(1), (16), (17), 1461)

(c) *Definitions in 34 CFR Part 303.* The following terms used in this part are defined in 34 CFR 303.10 and 303.13:

Early intervention services
Infants and toddlers with handicaps

(Authority: 20 U.S.C. 1472(1))

§§ 333.7–333.9 [Reserved]

Subpart B—[Reserved]

Subpart C—How Does the Secretary Make an Award?

§ 333.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 333.21 or § 333.22, as applicable.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: 20 U.S.C. 1461)

§ 333.21 What selection criteria does the Secretary use to evaluate applications for research or evaluation activities?

The Secretary uses the following criteria to evaluate applications for research and evaluation projects:

(a) *Importance.* (15 points) The Secretary reviews each application to determine the extent to which the proposed project addresses national concerns in light of the purposes of this part, and considers the significance of the problem or issue to be addressed.

(b) *Technical soundness.* (30 points)

(1) The Secretary reviews each application to determine if the approach is technically and programmatically sound.

(2) The Secretary looks for—

(i) High quality in the design of the project;

(ii) Technical soundness of the research or evaluation plan, including if appropriate—

(A) The design;

(B) The proposed sample;

(C) The instrumentation; and

(D) The data analysis.

(c) *Plan of operation.* (15 points)

(1) The Secretary reviews each application to determine the quality of the plan of operation for the project.

(2) The Secretary looks for—

(i) An effective plan of management that ensures proper and efficient administration of the project;

(ii) A clear description of how the objectives of the project relate to the purpose of the program;

(iii) The way the applicant plans to use its resources and personnel to achieve each objective; and

(iv) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, or gender.

(d) *Quality of key personnel.* (15 points)

(1) The Secretary reviews each application to determine the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary considers—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section plans to commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, and any other qualifications that pertain to the quality of the project.

(e) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application to determine that the applicant plans to devote adequate resources for the project.

(2) The Secretary considers the extent to which—

(i) The facilities that the applicant plans to use are adequate;

(ii) The equipment and supplies that the applicant plans to use are adequate; and

(iii) The applicant demonstrates necessary access to target population necessary to conduct the research or evaluation.

(f) *Impact.* (5 points) The Secretary reviews each application to determine—

(1) The probable impact of the proposed project in educating or providing early intervention services to infants, toddlers, children, and youth with handicaps; and

(2) The contribution that the project findings or products will make to current knowledge or practice.

(g) *Dissemination.* (5 points) The Secretary reviews each application to determine the extent to which the findings and products will be disseminated to, and used for the benefit of appropriate target groups.

(h) *Budget and cost-effectiveness.* (10 points)

(1) The Secretary reviews each application to determine if the project has an adequate budget and is cost effective.

(2) The Secretary considers the extent to which—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(Authority: 20 U.S.C. 1461)

§ 333.22 What selection criteria does the Secretary use to evaluate applications for development or demonstration activities?

The Secretary uses the following criteria to evaluate applications for development and demonstration projects:

(a) *Importance.* (20 points)

(1) The Secretary reviews each application to determine the extent to which the proposed project addresses national concerns in light of the purposes of this part.

(2) The Secretary considers—

(i) The significance of the problem or issue to be addressed;

(ii) The potential impact of the proposed project for providing innovative advancements to the problem or issues; and

(iii) Previous research findings related to the problem or issue.

(b) *Technical soundness.* (30 points)

(1) The Secretary reviews each application to determine the quality and technical soundness of the plan of operation for the project.

(2) The Secretary looks for—

(i) High quality in the conceptual design of the project;

(ii) A clear specification of the procedures to be followed in carrying out the project; and

(iii) The extent to which the methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that can be quantified.

(c) *Plan of operation.* (15 points)

(1) The Secretary reviews each application to determine the quality of the plan of operation for the project.

(2) The Secretary looks for—

(i) An effective plan of management that insures proper and efficient administration of the project;

(ii) The way the applicant plans to use its resources and personnel to achieve each objective; and

(iii) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(d) *Evaluation plan.* (5 points) The Secretary reviews each application to determine the quality of the evaluation plan for assuring adequate performance measurement of project progress.

Cross Reference: 34 CFR 75.590, Evaluation by the grantee.

(e) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application to determine the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary considers—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (e)(2) (i) and (ii) of this section will commit to the project; and

(iv) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(3) To determine personnel qualifications, the Secretary considers experience and training, in fields related to the objectives of the project, and any other qualifications that pertain to the quality of the project.

(f) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application to determine that the applicant plans to devote adequate resources to the project.

(2) The Secretary considers the extent to which—

(i) The facilities that the applicant plans to use are adequate;

(ii) The equipment and supplies that the applicant plans to use are adequate; and

(iii) The applicant demonstrates access to subjects necessary to conduct the proposed project.

(g) *Marketing and dissemination.* (10 points)

(1) The Secretary reviews each application to determine if there are adequate provisions for marketing or disseminating results.

(2) The Secretary considers—

(i) The provisions for marketing, replicating, or otherwise disseminating the results of the project; and

(ii) Provisions for making materials and techniques available to the populations for whom the project would be useful.

(h) *Budget and cost-effectiveness.* (5 points)

(1) The Secretary reviews each application to determine if the project has an adequate budget and is cost effective.

(2) The Secretary considers the extent to which—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(Authority: 20 U.S.C. 1461)

§§ 333.23–333.29 [Reserved]

Subpart D—What Conditions Must Be Met After an Award?

§ 333.30 What materials must be submitted by the grantee?

The Secretary may require any grantee engaged in the development of materials to submit a copy of those materials.

(Authority: 20 U.S.C. 1461)

§§ 333.31–333.39 [Reserved]

Subpart E—[Reserved]

[FR Doc. 88–4668 Filed 3–2–88; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Technology, Educational Media, and Materials for the Handicapped Program; Final Annual Funding Priorities for Fiscal Year 1988

AGENCY: Department of Education.

ACTION: Notice of final annual funding priorities.

SUMMARY: The Secretary establishes annual funding priorities for the Technology, Educational Media, and Materials for the Handicapped Program to ensure effective use of program funds and to direct funds to areas of identified need during fiscal year 1988.

EFFECTIVE DATE: These final annual funding priorities take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of these final annual funding priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3094—M/S 2313), Washington, DC 20202. Telephone: (202) 732–1099.

SUPPLEMENTARY INFORMATION: Awards under the Technology, Educational Media, and Materials for the Handicapped Program are authorized under Part G of the Education of the Handicapped Act which was established by Section 317 of the Education of the Handicapped Act Amendments of 1986. The purpose of this program is to advance the use of new technology, media, and materials in the education of students with handicaps and the provision of early intervention services to infants and toddlers with handicaps. In creating a new Part G, Congress expressed the intent that the projects and centers funded under that part should be primarily for the purpose of enhancing research and development advances and efforts being undertaken by the public or private sector, and to provide necessary linkages to make more efficient and effective the flow from research and development to application.

Public Comment

In the notice or proposed annual funding priorities the Secretary invited comments on the proposed priorities. (*See* 52 FR 46724, December 9, 1987.) The Secretary did not receive any comments. Except for minor editorial revisions, the Secretary has made no changes in these priorities since publication of the notice of proposed annual funding priorities.

Priorities

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), and subject to available funds, the Secretary gives an absolute preference to each application submitted in response to one of the following priorities. An absolute preference is one under which the Secretary selects only those applications that meet the described priorities. Each application must provide satisfactory assurance that the recipient will use funds made available to conduct one of the following activities:

Priority 1: Research on Technology—Administration and Management

This priority supports research projects that examine the use of technology in the effective administration and management of special education. The purpose of this priority is to determine what conditions exist and what the current or potential role of technology is in effective decision-making, coordination, and planning in administration and management.

Over the past six years, the Office of Special Education Programs (OSEP) has funded many technology projects in the areas of research and development of technology. However, the majority of the work has focused on the use of technology for instruction. Discussions with persons in the field and evaluation of current literature indicate a need to support research in administrative areas. Little systematic research has been done on the role technology now plays or could potentially play in effective administration. It is intended that this priority examine administrative issues.

Possible areas of exploration might include how technology and technology-related issues affect: (1) District-wide and school-based decision-making and planning; (2) coordination between special education and regular education; (3) data collection and use; or (4) assessment and placement patterns. Applications submitted under this priority must provide a research design that clearly builds on past technology implementation studies, outlines the background or reasons for the research questions chosen, identifies the critical variables in the study area chosen, clearly describes expected outcomes and how the success of these outcomes will be measured, describes the procedures for analyzing data collected, and outlines a variety of dissemination avenues for information about successful approaches discovered.

Priority 2: Innovative Cooperative Models to Expand Technology Benefits

This priority supports projects that improve cooperative interagency activities among State and local educational agencies, public health agencies, and other relevant agencies having potential to provide statewide or interstate access to and use of technology to meet the early intervention, educational, vocational, and transitional needs of individuals with handicaps. Technology, if available and used knowledgeably, has enormous potential for improving the educational opportunities for individuals with handicaps. Technology may also enhance the ability of the target population to live independently and find suitable employment. Due to the expense involved in providing access to technology or delivering technology-based services on an individual basis or to a small group of people, handicapped populations have not benefited from current technology.

In recognition of this problem, this priority supports projects that provide a means for demonstrating and stimulating potential statewide or interstate service delivery models which encourage a broad planning base across State agencies. The cooperative model to be developed by these projects must include a statement of need to justify the focus and potential impact of the project, as well as describe the planning, implementation, and evaluation process. By creating a State or interstate planning base across agencies, it is anticipated that individuals with handicaps will have greater access to current technology through: (1) Assistive devices (i.e., augmentative communication, mobility scanners); (2) peripheral interface devices needed to provide access to commercially available technologies (i.e., voice synthesizers, switches); (3) technology applications for improving services (i.e., braille, large-print materials, telecommunications); (4) technology assessment and engineering (i.e., custom

fitting); or (5) funding for the purchase of appropriate technology. Applications must include letters of intent to participate from all agencies that will be involved.

(Catalog of Federal Domestic Assistance No. 84.180; Technology, Educational Media, and Materials for the Handicapped Program)

Authority: 20 U.S.C. 1461.

Dated: February 19, 1988.

William J. Bennett,

Secretary of Education.

[FR Doc. 88–4669 Filed 3–2–88; 8:45 am]

BILLING CODE 4000-01-M

Federal Register

Thursday
March 3, 1988

Part IX

Department of Education

34 CFR Parts 350 and 357

National Institute on Disability and Rehabilitation Research; Notice of Proposed Rulemaking and Notice

DEPARTMENT OF EDUCATION

34 CFR Parts 350 and 357

National Institute on Disability and Rehabilitation Research Program Provisions

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the National Institute on Disability and Rehabilitation Research (NIDRR). The regulations are needed to modify the Institute's current Field-Initiated Research Projects program to meet the need for investigator-initiated projects in development and dissemination of new rehabilitation techniques and devices, and to correct problems that the Institute has observed in the evaluation of applications for field-initiated projects. The proposed regulations would define the purpose and activities of the program, and specify criteria for selecting applicants to receive awards.

DATES: Comments must be received on or before April 18, 1988.

ADDRESSES: Comments should be addressed to: Betty Jo Berland, National Institute on Disability and Rehabilitation Research, Department of Education, 400 Maryland Avenue SW., Switzer Building, Room 3070, Washington, DC 20202.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland; Telephone: (202) 732–1139; deaf or hearing impaired individuals may call (202) 732–1198 for TTY services.

SUPPLEMENTARY INFORMATION: On March 12, 1984, the Secretary published regulations establishing the Field-Initiated Research Projects Program (FIR). The Secretary now proposes regulations to revise and improve that program by: defining the scope of the program to include certain types of projects for information dissemination and for the development of devices and techniques, as well as research; clarifying the types of projects that can be funded in each of the three categories—research and demonstrations, development, and dissemination; and establishing new selection criteria for the evaluation of applications received in the program.

In the past, the Institute has limited the investigator-initiated program to strictly research and demonstration projects. On the basis of that experience, the Secretary has determined that the program should have a broader scope to accommodate other types of activities authorized under the Institute and necessary to carry out its mission.

Previously, NIDRR has used the same selection criteria for FIR and certain other grant competition programs, including various types of Centers. These criteria have proved confusing to the peer reviewers and have contributed to less than optimum feedback to the applicants. The Secretary is therefore proposing a set of simplified criteria specifically for this program. The proposed criteria reflect differences among the three types of projects—research and demonstrations, development, and dissemination—that may be conducted under this program.

The proposed selection criteria are: importance of the problem to be addressed; effectiveness of the design of the project in addressing the problem; staffing of the project; and project management and evaluation. The proposed selection criteria remove any reference to Institute funding priorities (a reference that was confusing to potential applicants since the Institute does not establish annual priorities in the FIR program) and eliminate the need for reviewers to determine which criteria are relevant to a given application. The proposed criteria place greater emphasis on the quality of the project design, and take into account factors that are relevant to evaluating projects for activities other than research. Other aspects of the review and evaluation procedure would remain unchanged.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations specified in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities which might be affected by these regulations are small institutions of higher education, Indian tribes, or public or private organizations. However, these regulations would not have a significant economic impact on the small entities affected because they do not impose excessive regulatory burdens or reporting requirements, nor do they require unnecessary Federal supervision.

Paperwork Reduction Act of 1980

Section 357.32 contains information collection requirements. As required by section 3504(b) of the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: James Houser.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in Room 3070 of the Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority in the United States.

List of Subjects

34 CFR Part 350

Administrative practice and procedure, Education, Educational research, Grant programs—education, Handicapped.

34 CFR Part 357

Education, Educational research, Grant programs—education, Handicapped.

34 CFR Part 357

Education, Educational research, Grant Programs—education, Handicapped, Manpower training programs, Vocational rehabilitation.

Dated: February 19, 1988.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.133P, National Institute on Disability and Rehabilitation Research)

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by amending Parts 350 and 357 as follows:

PART 350—DISABILITY AND REHABILITATION RESEARCH: GENERAL PROVISIONS

1. The authority citation for Part 350 continues to read as follows:

Authority: 29 U.S.C. 760–762, unless otherwise noted.

2. Section 350.1 is amended by revising paragraph (b)(7) to read as follows:

§ 350.1 Disability and rehabilitation research.

* * * * *

(b) The Secretary awards financial assistance through nine types of programs: * * *

(7) Field-initiated projects (34 CFR Part 357).

* * * * *

3. Section 350.30 is amended by revising the heading and the second sentence to read as follows:

§ 350.30 What is the peer review process for these programs?

* * * * *

Peer review panels review applications on the basis of the applicable selection criteria in 34 CFR 350.34, 352.31, 353.31, 357.32, 358.32, or 359.31.

(Authority: Sec. 202(e); 29 U.S.C. 761a(e))

4. Section 350.33 is amended by revising the heading and paragraph (a) to read as follows:

§ 350.33 How does the Secretary evaluate an application under 34 CFR Parts 351, 354, or 355?

(a) The Secretary evaluates an application under 34 CFR Part 351, 354, or 355 on the basis of the selection criteria in § 350.34.

* * * * *

5. Section 350.34 is amended by revising the heading, the introductory text of paragraph (a) and paragraph (a)(1) to read as follows:

§ 350.34 What selection criteria does the Secretary use in reviewing applications under Parts 351, 354, or 355?

(a) Potential Impact of Outcomes: Importance of Program (Weight 3.0). The Secretary reviews each application to determine to what degree—

(1) The proposed activity relates to the announced priority;

* * * * *

PART 357—DISABILITY AND REHABILITATION RESEARCH: FIELD-INITIATED PROJECTS

6. The authority citation for Part 357 continues to read as follows:

Authority: 29 U.S.C. 760–762, unless otherwise noted.

7. The title of Part 357 is revised to read as above.

8. Section 357.1 is revised to read as follows:

§ 357.1 What is the field-initiated projects program?

This program is designed—

(a) To encourage eligible parties to originate valuable ideas for research and demonstration, development, or knowledge dissemination projects to further the purposes of the Institute; and

(b) To support research and demonstration, development, or knowledge dissemination projects as described in § 357.10, that address important activities not supported by Institute-funded research or that complement that research in a promising way.

(Authority: Secs. 200(1); 202(i)(1); 204; 29 U.S.C. 760(1), 761(a)(1), 762)

9. Section 357.10 is revised to read as follows:

§ 357.10 What types of projects are authorized under this program?

The following types of projects may be funded under this program:

(a) Research and demonstration projects, including—

(1) Scientific investigations into the nature of disability and its prevalence and distribution;

(2) Methods of analyzing disability;

(3) Techniques and devices for habilitation, rehabilitation, and restoration of physical, emotional, cognitive, communicative, vocational, and social functioning;

(4) Analyses of social, economic, industrial, geographic, and demographic factors affecting disability and rehabilitation;

(5) Studies of architectural, administrative, employment, and transportation barriers and other problems encountered by individuals with disabilities in their daily lives; and

(6) General scientific and technological inquiries to develop methods and devices to enable persons with disabilities to live with maximum independence, and other comparable research and demonstration activities.

(b) Knowledge dissemination projects related to the dissemination and utilization of new knowledge in disability and rehabilitation, including—

(1) Studies of the most effective means to disseminate new knowledge to disabled consumers and service providers;

(2) Controlled demonstrations of selected techniques to encourage the utilization of new knowledge; and

(3) Studies to develop and test new curricula to train service providers in specific clinical or service skills or in the management of services.

(c) Development projects to—

(1) Design and develop new devices or techniques to assist individuals with disabilities to engage in activities of daily living;

(2) Fabricate prototype devices;

(3) Evaluate prototypes and other important but untested devices in clinical and daily living settings;

(4) Develop standards for assistive devices; and

(5) Develop techniques to promote the manufacture, evaluation, and distribution of new devices.

(Authority: Secs 202(e) and 202(i)(1); 29 U.S.C. 761a(e) and 761a(i)(1))

10. Section 357.32 is revised to read as follows:

§ 357.32 How does the Secretary evaluate an application under this program?

(a) *Importance of the problem.* (20 points) The Secretary reviews each application to determine the extent to which—

(1) The proposed project addresses a problem that is significant to persons with disabilities or to those who provide services to them; and

(2) The proposed project is likely to produce new and useful knowledge, techniques, or devices that will develop or disseminate solutions to problems confronting persons with disabilities.

(b) *Design of the project. (45 points)*

(1) The Secretary reviews each application for a research and demonstration project to determine the extent to which—

(i) The review of the literature is appropriate and indicates familiarity with the relevant current research;

(ii) The research hypotheses are theoretically sound and based on current knowledge;

(iii) The sample populations are adequate and appropriately selected;

(iv) The data collection instruments and methods are appropriate and likely to be successful;

(v) The data analysis measures are appropriate; and

(vi) The application discusses the anticipated research results and demonstrates how those results would satisfy the original hypotheses.

(2) The Secretary reviews each application for a knowledge dissemination project to determine the extent to which—

(i) The need for the information has been demonstrated;

(ii) The target populations are appropriately specified;

(iii) The dissemination methods are appropriate to the target populations;

(iv) The materials for dissemination are prepared in media accessible to the target populations;

(v) There are adequate means of documenting and evaluating the effectiveness of the dissemination activity.

(3) The Secretary reviews each application for a development project to determine the extent to which—

(i) The proposed project will use the most effective and appropriate technology available in developing the new device or technique;

(ii) The proposed development is based on a sound conceptual model that demonstrates an awareness of the state-of-the-art in technology;

(iii) Devices or techniques will be developed and tested in an appropriate environment;

(iv) The applicant considers the cost-effectiveness and usefulness of the device or technique to be developed for persons with disabilities; and

(v) The applicant discusses the potential for commercial or private manufacture, marketing, and distribution of the product.

(c) *Personnel.* (20 points) The Secretary reviews each application to determine the extent to which—

(1) The key personnel have adequate training and experience in the required disciplines to conduct the proposed activities;

(2) The allotment of staff time is adequate to accomplish the proposed activities; and

(3) The applicant ensures that personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(d) *Management and Evaluation.* (15 points) The Secretary reviews each application to determine the extent to which—

(1) The resources of the applicant are adequate, appropriate, and accessible to individuals with disabilities;

(2) The proposed budget is adequate and appropriate for the activities to be carried out;

(3) There is an appropriate plan to evaluate the effectiveness of the field-initiated project in accomplishing its goals and objectives;

(4) The applicant provides a plan of operations indicating that it will achieve the project objectives in a timely and effective manner; and

(5) Appropriate collaboration with other agencies is assured.

(Authority: Secs. 202(e) and 202(i)(1); 29 U.S.C. 761a(e) and 761a(i)(1)).

11. Section 357.33 is amended by revising paragraphs (b)(1) and (b)(2), and removing paragraph (b)(3) to read as follows:

§ 357.33 What are the priorities for funding under this program?

* * * * *

(b) * * *

(1) The proposed project represents a unique opportunity to advance rehabilitation knowledge to improve the lives of individuals with disabilities.

(2) The proposed project complements research already planned or funded by the Institute through annual priorities published in the **Federal Register** or addresses that research in a new and promising way.

* * * * *

[FR Doc. 88-4670 Filed 3-2-88; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.133G]

Notice Inviting Applications for Field-Initiated Projects Grants Under the National Institute on Disability and Rehabilitation Research for Fiscal Year 1988

Purpose: Provides support to public and private agencies and organizations, including institutions of higher education and Indian tribes and tribal organizations, for planning and conducting research, demonstrations, development, and dissemination projects related to the rehabilitation of individuals with disabilities. Historically Black Colleges and Universities are encouraged to apply. The Notice of Proposed Rulemaking published in this issue of the **Federal Register** proposes some changes in the regulations for this program, and NIDRR intends to evaluate applications according to new selection criteria.

Deadline for Transmittal of Applications: May 4, 1988.

Applications Available: March 16, 1988. *Available Funds:* $500,000.

Estimated Range of Awards: $90,000–$110,000.

Estimated Average Size of Awards: $100,000.

Estimated Number Of Awards: 5.

Project Period: 36 months.

Applicable Regulations: (a) Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78, and (b) National Institute on Disability and Rehabilitation Research Regulations, 34 CFR Part 350 and 34 CFR Part 357, including the proposed changes to Part 357 when they are adopted in final form. A Notice of Proposed Rulemaking is published in this issue of the **Federal Register.** Applicants should prepare their applications based on the proposed regulations. If there are significant changes in the final regulations, applicants will be given the opportunity to amend or resubmit their applications.

For Applications of Information Contact: National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue SW., Switzer Building, Room 3070, Washington, DC, 20202. Telephone: (202) 732–1207; deaf and hearing impaired individuals may call (202) 732–1198 for TTY services.

Program Authority: 29 U.S.C. 762.

Dated: February 29, 1988.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 88–4671 Filed 3–2–88; 8:45 am]

BILLING CODE 4000–01–M

federal register

Thursday
March 3, 1988

Part X

Department of Housing and Urban Development

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 115

Recognition of Substantially Equivalent Laws; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 115

[Docket No. N-88-1780; FR-2471]

Recognition of Substantially Equivalent Laws

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of recognition for four localities, termination of agreements for interim referral with three localities and request for comments on recognition of three localities.

SUMMARY: Title 24, Part 115 of the Code of Federal Regulations describes the procedures for the recognition of States and localities whose fair housing provide rights and remedies, for alleged discriminatory housing practices, that are substantially equivalent to those provided by the Federal Fair Housing Act (Titile VIII of the Civil Rights Act of 1968) ("the Act"). This notice announces the Department's decision to recognize Gainesville, FL, Danville, IL, Marion, IN and Rockland County, NY in accordance with 24 CFR 115.6(c) and terminates agreements for interim referrals with three of these jurisdictions. This notice also announces that HUD has determined that the fair housing law of each of the following localities, on its face, is sustantially equivalent to the Act: the cities of Cambridge, MA, Hammond, IN, and Michigan City, IN. The notice seeks public comment on this determination and on the present or past performance of the agencies administering and enforcing the fair housing laws of Cambridge, MA, Hamond, IN, and Michigan City, IN. The Department will consider all comments submitted in making its determination whether these local laws provide rights and remedies that are substantially equivalent to the Act.

DATES Effective: March 3, 1988. Comments are due April 4, 1988.

ADDRESS: Interested persons are invited to submit comments on Cambrige, MA, Hammond, IN, and Michigan City, IN to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development 451 Seventh Street SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Wagner D. Jackson, Acting Director, Office of Fair Housing Enforcement and Section 3 Compliance, Room 5208, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755-6836. (This is not toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Recognition of Four Jurisdictions

The Department published notices soliciting public comment on the fair housing laws of Gainesville, FL (August 5, 1987, 52 FR 29038); Danville, IL and Marion, IN (August 2, 1987, 50 FR 31394); and Rockland County, NY (January 7, 1986, 51 FR 595). The notices invited comments on the Department's determination that the fair housing law of each jurisdiction "on its face" provides rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided under Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601-19. Comment was also invited on the past and present performance of the agencies administering the laws. No public comments were received in opposition to the recognition of these laws.

This publiciation gives notice of the recognition of Gainesville, FL, Danville, IL, Marion, IN, and Rockland County, NY, in accordance with 24 CFR 115.6(c).

II. Termination of Agreements for Interim Referral

On October 9, 1986 (51 FR 36222), HUD announced that it had entered into agreements with Danville, IL, Marion IN and Rockland County, NY for the interim referral of complaints under 24 CFR 115.11. Section 115.11 requires the termination of agreements for interim referral of complaints upon the publication of recognition under § 115.6(c). Accordingly, the agreements for interim referral with these three jurisdictions are terminated.

III. Request for Public Comments

In accordance with § 115.6(b), HUD announces that it has determined that the fair housing law of each of the following localities, on its face, is substantially equivalent to the Act: the cities of Cambridge, MA, Hammond, IN, and Michigan City, IN.

The evaluation of the laws of these jurisdictions has been conducted in accordance with 24 CFR 115.3. Under § 115.3(c), analyzing of the adequacy of a State or local fair housing law "on its face" is intended to focus on the meaning and intent of the text of the law as distinguished from the effectiveness of its administration. Accordingly, the analysis is not limited to the literal text of the law, but must take into account necessary relevant matters of State or local law, or interpretations of the fair housing law by competent authorities.

Section 115.2 provides for two separate inquiries: (a) Whether the State or local law, on its face, provides rights and remedies for alleged discriminatory housing practices that are substantially equivalent to the rights and remedies provided in the Act, and (b) whether the current practices and past performance of the appropriate State or local agency charged with administration and enforcement of the law demonstrates that in operation, the State or local law in fact provides rights and remedies that are substantially equivalent to those provided in the Act.

Today's notice invites interested persons and organizations, during the next 30 days, to file written comments relevant to the determination whether the current practices and past performance of the local agencies charged with administration and enforcement of the fair housing laws of these jurisdictions demonstrate that, in operation, the laws in fact provide rights and remedies substantially equivalent to those provided in the Act. This notice also invites comments on the Department's determination are to the adequacy of each law on its face.

Accordingly, public comment is solicited in accordance with 24 CFR 115.6(b) with respect to the cities of Cambridge, MA, Hammond, IN, and Michigan City, IN.

In accordance with 24 CFR 50.20(k), this notice is not subject to the environmental assessment requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4332.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this notice would nct have a significant economic impact on a substantial number of small entities. The rule only carries out the Department's statutory responsibility as set in section 810(c) of the Fair Housing Act, 42 U.S.C. 3610(c).

Dated: March 1, 1988.

William E. Wynn,

General Deputy Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 4782 Filed 3-2-88; 9:52 am]

BILLING CODE 4210-28-M

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H.R. 1612/Pub. L. 100-252

To authorize appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1988, 1989, and 1990. (Feb. 29, 1988; 102 Stat. 18; 2 pages) Price: $1.00

S. 2022/Pub. L. 100-253

Veterans' Home Loan Program Emergency Amendments of 1988. (Feb. 29, 1988; 102 Stat. 20; 2 pages) Price $1.00

S.J. Res. 122/Pub. L. 100-254

To designate the week beginning October 16, 1988, as "Gaucher's Disease Awareness Week." (Feb. 29, 1988; 102 Stat. 22; 1 page) Price $1.00